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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 294

Implementation of the Freedom of Information Act; Uniform Fee Schedule, Guidelines, and Miscellaneous Amendments

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comment.

SUMMARY: The Office of Personnel Management (OPM) is amending its regulations to implement the requirements of the Freedom of Information Reform Act of 1986. The revisions also reflect the provisions of the "Uniform Freedom of Information Act Fee Schedule and Guidelines," which the Office of Management and Budget (OMB) published on March 27 1987 In addition, this revision will adjust the remainder of the freedom of information regulations to improve clarity, update organizational references, and streamline processing.

DATES: This interim rule will become effective on April 25, 1987· Comments must be received on or before June 1, 1987

ADDRESS: Comments may be sent or delivered to Michael Crum, Assistant Director for Information Management, Administration Group, Office of Personnel Management, Room 6410, 1900 E St. NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: William C. Duffy, (202) 632–7714.

SUPPLEMENTARY INFORMATION: The Freedom of Information Reform Act of 1986 includes a requirement that each agency promulgate regulations that specify a schedule of fees for processing freedom of information requests and that establish procedures and guidelines for determining when such fees should be waived or reduced. The Act stipulates that the schedule of fees must conform to guidelines issued by the Director of OMB. OMB issued the required guidelines on March 27 1987 in a document entitled "Uniform Freedom of Information Act Fee Schedule and Guidelines." Agencies are required to promulgate implementing regulations by April 25, 1987.

OPM is amending Part 294 of its regulations to implement these new provisions of law and the OMB guidelines. In addition, OPM is revising other portions of Part 294 to improve clarity, update organizational information, and streamline the processing of requests. The following is a section-by-section description of the amendments and revisions to the attached regulations.

- Section 294.101, which consists of introductory material, has been revised to improve clarity.
- Section 294.102. which defines terms, has been expanded for clarity and to add definitions needed because of the new requirements of law.
- Section 294.103 (Access to the Requesters Own Records) has been redesignated as § 294.105 and all subsequent sections have been renumbered accordingly. It covers requests from individuals for records filed under their own name and has been revised to improve clarity.
- A new § 294.103, containing the procedures for assigning requests and requesters to categories, has been developed.
- A new § 294.104 contains procedures for clarifying a requesters category.
- Section 294.106 (formerly § 294.104) describes OPM's *Index to Information.* OPM has eliminated the requirement to issue quarterly updates to the *Index.* This section now includes public notice, as required by 5 U.S.C. 552(a)(2)(C), that publication of the *Index* more frequently than annually would be unnecessary and impractical.
- Section 294.107 (formerly § 294.105) tells where to obtain records from OPM. The wording has been revised to improve clarity; and, the names and addresses of organizations, and the subject matter listing, have been updated. In addition, OPM has revised the procedures that its organizations must follow in forwarding requests for the action of other OPM components or other Government agencies. The section also makes it clear that OPM is not obligated to create records for the purpose of responding to a Freedom of Information Act request.
- Section 294.108 (formerly § 294.106) contains procedures for obtaining records. It has been revised to improve clarity.
- Section 294.109 (formerly § 294.107) concerns the payment, computation, and waiver of fees. For the most part, the provisions of this section are new and implement requirements of the Freedom of Information Reform Act.
- Sections 294.110, 294.111 (formerly §§ 294.108 and 294.109), and § 294.401 have been updated to reflect current organizational information and references.

Pursuant to section 553(b)(3)(B) and (d)(3) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking and for making this amendment effective in less than 30 days. The notice and 30-day delay in the effective date are being waived because the timetable established by the Freedom of Information Reform Act of 1986 requires the promulgation of agency implementing regulations by April 25, 1987.

Under section 8(a)(2) of Executive Order 12291, I am claiming an exemption to the OMB review provision. I have determined that allowing a 10-day OMB review before publication in the **Federal Register** would prevent OPM from meeting the April 25, 1987 statutory deadline.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal employees and agencies.

List of Subjects in 5 CFR Part 294

Administrative practice and procedure, Freedom of information.

U.S. Office of Personnel Management
Constance Horner,
Director.

Accordingly, OPM is amending Part 294 of Title 5 of the Code of Federal Regulations as follows:

PART 294—AVAILABILITY OF OFFICIAL INFORMATION

1. The authority citation for Part 294 is revised to read as follows:

Authority: 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92-502, as amended by the Freedom of Information Reform Act of 1986, Pub. L. 99-570.

2. Subparts A and D of Part 294 are revised to read as follows:

Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act

Sec.

* * * * *

Subpart D—Cross References

Subpart A—Procedures for Disclosure of Records Under the Freedom of Information Act

§ 294.101 Purpose.

This subpart contains the regulations of the Office of Personnel Management (OPM) implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552. Except as provided by § 294.105, OPM will use the provisions of this subpart to process all requests for records.

§ 294.102 General definitions.

All of the terms defined in the Freedom of Information Act, and the definitions included in the "Uniform Freedom of Information Act Fee Schedule and Guidelines" issued by the Office of Management and Budget apply, regardless of whether they are defined in this subpart.

"Direct costs" means the expenditures that an agency actually incurs in searching for, duplicating, and reviewing documents to respond to an FOIA request. Overhead expenses (such as the cost of space, and heating or lighting the facility in which the records are stored), are not included in direct costs.

"Disclose or disclosure" means making records available, on request, for examination and copying, or furnishing a copy of records.

"Duplication" means the process of making a copy of a document necessary to respond to an FOIA request. Among the forms that such copies can take are, paper, microform, audiovisual materials, or machine readable documentation (e.g., magnetic tape or disk).

"Records," "information," "document," and "material" have the same meaning as the term "agency records" in section 552 of title 5, United States Code.

"Review" means the process of initially examining documents located in reponse to a request to determine whether any portion of any document located, may be withheld. It also includes processing documents for disclosure; e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal and policy issues regarding the application of exemptions.

"Search" means the time spent looking for material that is responsive to a request, including page-by-page, or line-by-line identification of material within documents. The definition assumes that searches will be carried out in the most efficient and least expensive manner so as to minimize the cost for both the agency and the requester.

§ 294.103 Definitions of categories and assignment of requests and requesters to categories.

OPM will apply the definitions and procedures contained in this section to assign requesters to categories. The four categories established by 5 U.S.C. 552(a) are requests for commercial use, requests for non-commercial use made by educational or non-commercial scientific institutions, requests for non-commercial use made by representatives of the news media, and all others.

(a) *Request for commercial use.* A "commercial use request" is from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person or institution on whose behalf the request is made. In determining whether a request properly belongs in this category, OPM will look first to the intended use of the documents being requested.

(b) *Request for non-commercial use made by an educational or non-commercial scientific institution.* OPM will include requesters in one of the two categories described in paragraphs (b)(1) and (2) of this section when the request is being made as authorized by, and under the auspices of, a qualifying institution; and the records are sought, not for a commercial use, but in furtherance of scholarly or scientific research.

(1) "Educational institution" refers to any public or private, preschool, elementary, or secondary school, institution of undergraduate or graduate higher education, or institution of professional or vocational education, which operates a program or programs of scholarly or scientific research.

(2) A "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (a) of this section, and which is operated solely to conduct scientific or scholarly research, the results of which are not intended to promote any particular product or industry.

(c) *Request from a representative of the news media.* "Representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish, broadcast, or otherwise disseminate news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals who make their products available for purchase or subscription by the general public. Free-lance journalists may be regarded as representatives of the news media, if they demonstrate a solid basis for expecting publication, or some other form of dissemination, through a particular organization even though they are not actually employed by it. OPM will assign news media officials to this category only when a request is not for commerical use. If a person meets the other qualifications for inclusion, OPM will not apply the term "commercial use" to his or her request for records in support of a news dissemination function.

(d) *Requests from others.* The category "all others," consists of any requesters not covered by paragraph (a), (b), or (c). However, as provided by § 294.105, OPM will use its Privacy Act regulations, rather than this subpart, when individuals ask for records about themselves that may be filed in OPM systems of records.

§ 294.104 Clarifying a requesters category.

(a) *Seeking clarification of a requester's category.* OPM may seek additional clarification before assigning a person to a specific category if—

(1) There is reasonable cause to doubt the requesters intended use of records; or

(2) The intended use is not clear from the request itself; or

(3) There is any other reasonable doubt about qualifications that may affect the fees applicable or the services rendered under § 294.109.

(b) *Prompt notification to requester.* When OPM seeks clarification as provided by paragraph (a) of this section, it will provide prompt notification either by telephone or in writing of the information or materials needed.

(c) *Effect of seeking clarification on time limits for responding.* When applying the time limits in section 552 of title 5, United States Code, OPM will not officially consider any request for records as being received, until the official who is assigned responsibility for making a decision on releasing the records has—

(1) Received any additional clarification sought under paragraphs (a) and (b) of this section; and

(2) Determined that the clarifying information is sufficient to correctly place the requester in one of the categories prescribed in this section.

§ 294.105 Access to the requester's own records.

When the subject of a record, or a duly authorized representative of the subject, requests his or her own records from a Privacy Act system of records, as defined by 5 U.S.C. 552a(a)(5), and the record is maintained so that it can be retrieved by the subject's name or other personal identifier, OPM will process the request under the Privacy Act procedures in Part 297 of this chapter.

§ 294.106 Index of information.

(a) OPM publishes OPM Document No. 1, *Index to Information* annually and issues supplements during the year when there is a sufficient volume of new or revised material. This index contains material published and offered for sale or available for public inspection and copying.

(b) A copy of this index is available at no cost from the—

Internal Distribution Submit, Office of Personnel Management, Room B443, 1900 E Street, NW., Washington, DC 20415

(c) OPM indexes material for the convenience of the public. Indexing does not constitute a determination that all of the material listed is within the category that is required to be indexed by 5 U.S.C. 552(a)(2). Most of OPM's publications may be found in OPM's Library in Room 5H27 of the above address.

(d) As provided by 5 U.S.C. 552(a)(2), OPM has determined that it is unnecessary and impractical to publish the *Index to Information* more frequently than annually because of the small number of revisions that occur.

§ 294.107 Places to obtain records.

(a) Address requests for OMP records to the officials listed in paragraph (b), (c), or (d) of this section.

(b) The following is a list of key Washington, DC officials of OPM and their principal areas of responsibility. Address requests for records to the appropriate official using the address below and the official's title.

Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415

Send to—	For subject-matter about—
Associate Director for Administration.	Administrative services; information management, financial management; personnel.
Associate Director for Retirement and Insurance.	Retirement; life and health insurance.
Associate Director for Personnel Systems and Oversight.	Personnel management in agencies; pay; position classification; wage grade jobs; performance management; employee and labor relations.
Assistant Director for Workforce Information.	Government-wide personnel statistics; official personnel and employee medical folders.
Associate Director for Training and Investigations.	Nationwide training.
Assistant Director for Federal Investigations.	Background investigations and related records on individuals.
Associate Director for Career Entry.	Nationwide examining and testing for employment; promotions; administrative law judges; affirmative employment programs for minorities, women, veterans, and the handicapped.
Director, Washington Area Service Center.	Examining, testing, and training operations in Washington, DC.
Director, Office of Government Ethics.	Ethics and conflict of interest.
Director, Office of Executive Personnel.	Senior Executive Service.

(c) Direct requests for records on subjects not specifically referred to in this section or in the *Index*, to—

Information Systems Plans and Policies Division, Office of Personnel Management, Room 6410, 1900 E Street, NW., Washington, DC 20415

(d) The following is a list of OPM regional offices. Address requests for regional records to the Regional Director, Office of Personnel Management in the appropriate region:

Boston Region—Boston Federal Office Building, 10 Causeway Street, Boston, MA 02222-1031

New York Region—Jacob K. Javits Building, 26 Federal Plaza, New York, NY 10278

Philadelphia Region—William J. Green, Jr., Federal Building, 600 Arch Street, Philadelphia, PA 19106

Atlanta Region—Richard B. Russell Federal Building, Suite 904, 75 Spring Street, SW., Atlanta, GA 30303

Chicago Region—John C. Kluczynski Federal Building, 30th Floor, 230 South Dearborn Street, Chicago, IL 60604

Dallas Region—1100 Commerce Street, Dallas, TX 75242

St. Louis Region—300 Old Post Office Building, 815 Olive Street, St. Louis, MO 63101

Denver Region—12345 West Alameda Parkway, P.O. Box 25167 Denver, CO 80225

San Francisco Region—211 Main Street, 7th Floor, San Francisco, CA 94105

(e) *When an organization does not have records in its custody.* When an OPM organization receives a Freedom of Information Act request for OPM records that it does not have in its possession, it will normally either—

(1) Retrieve the records from the organization that has possession of them; or

(2) Promptly forward the request to the appropriate organization. If a person has asked to be kept apprised of anything that will delay the official receipt of a request, OPM will provide notice of this forwarding action. Otherwise, OPM may, at its option, provide such notice.

(f) *Applying the time limits.* When applying the time limits in section 552 of title 5, United States Code, OPM will not officially consider any request to be received until it arrives in the OPM organization that has responsibility for the records sought.

(g) *Records from other Government agencies.* When a person seeks records that originated in another Government agency, OPM may refer the request to the other agency for response. Ordinarily, OPM will provide notice of this type of referral.

(h) *Creating records.* If a person seeks information from OPM in a format that does not currently exist, OPM will not ordinarily compile the information for the purpose of creating a record to respond to the request. OPM will advise the individual that it does not have records in the format sought. If other existing records would reasonably respond to the request or portions of it, OPM may provide these.

§ 294.108 Procedures for obtaining records.

(a) *Mailing or delivering a request.* Any person may ask for records under section 552 of title 5, United States Code, by directing a letter to one of the organizations listed in § 294.107 or by delivering a request in person at the addresses listed in that section during business hours on a regular business day.

(b) *Proper marking.* Each request for records should have a clear and prominent notation on the first page, such as "Freedom of Information Act Request." In addition, if sent by mail or otherwise submitted in an envelope or other cover, mark the outside clearly and prominently with "FOIA Request" or "Freedom of Information Act Request."

(c) *Contents of request letter.* A request must describe the records sought in sufficient detail to enable OPM personnel to locate the records with a reasonable amount of effort.

(1) OPM will regard a request for a specific category of records as fulfilling the requirements of this paragraph, if it enables responsive records to be identified by a technique or process that is not unreasonably burdensome or disruptive to OPM operations.

(2) Whenever possible, a request should include specific information about each record sought, such as the date, number, title or name, author, recipient, and subject matter of the record.

(3) If an OPM organization determines that a request does not reasonably describe the records sought, it will either provide notice of any additional information needed or otherwise state why the request is insufficient. OPM will also offer the record seeker an opportunity to confer, with the objective of reformulating the request so that it meets the requirements of this section.

(d) *Medical records.* OPM or another Government agency may disclose the medical records of an applicant, employee, or annuitant to the subject of the record, or to a representative designated in writing. However, medical records may contain information about an individual's mental or physical condition that a prudent physician would hesitate to give to the individual. Under such circumstances, OPM may disclose the records, including the exact nature and probable outcome of the condition, only to a licensed physician designated in writing for that purpose by the individual or his or her designated representative.

(e) *Publications.* If the subject matter of a request includes material published and offered for sale (e.g., by the Superintendent of Documents), OPM will explain where a person may review and/or purchase the publications.

(f) *Responses within 10 working days.* Except in unusual circumstances (as defined in 5 U.S.C. 522(a)(6)(B)), OPM will determine whether to disclose or deny records within 10-working days after receipt of the request (excluding weekends and holidays) and will provide notice immediately of its determination and the fees required, if any, as prescribed by § 294.109.

§ 294.109 Fees.

(a) *Applicability of fees.* OPM entities will furnish, without charge, reasonable quantities of materials that they have available for free distribution to the public. Subject to payment of fees as specified in this section, OPM may furnish other material. These fees are intended to recoup the full allowable direct costs of providing services.

(b) *Payment of fees.* Individuals may pay fees by check or money order, payable to the Office of Personnel Management.

(1) OPM will not assess fees for individual requests if the total charge would be less than $25, except as provided in paragraph (b)(5) of this section.

(2) If a request may reasonably result in a fee assessment of more than $25, OPM will not release records unless the requester agrees to pay the anticipated charges.

(3) If the request does not include an acceptable agreement to pay fees and does not otherwise convey a willingness to pay fees, OPM will promptly provide notification of the estimated fees. This notice will offer an opportunity to confer with OPM staff to reformulate the request to meet the requester's needs at a lower cost. Upon agreement to pay the required fees, OPM will further process the request.

(4) As described in § 294.107 OPM ordinarily responds to Freedom of Information Act requests in a decentralized manner. Because of this, OPM may at times refer a single request to two or more OPM entities to make separate direct responses. In such cases, each responding entity may assess fees as provided by this section, but only for direct costs associated with any response the component has prepared.

(5) OPM may aggregate requests and charge fees accordingly, when there is a reasonable belief that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests to evade the assessment of fees.

(i) If multiple requests of this type occur within a 30-day period, OPM may provide notice that it is aggregating the requests and that it will apply the fee provisions of this section, including any required agreement to pay fees and any advance payment.

(ii) Before aggregating requests of this type made over a period longer than 30 days, OPM will assure that it has a solid basis on which to conclude that the requesters are acting in concert and are acting specifically to avoid payment of fees.

(iii) OPM will not aggregate multiple requests on unrelated subjects from one person.

(6) If fees for document search are authorized as provided in paragraph (f) of this section, OPM may assess charges for an employee's (or employees') time spent searching for documents and other direct costs of a search, even if a search fails to locate records or if records located are determined to be exempt from disclosure.

(7) Services requested and performed but not required under the Freedom of Information Act, such as formal certification of records as true copies, will be subject to charges under the Federal User Charge Statute (31 U.S.C. 483a) or other applicable statutes.

(c) *Payment of fees in advance.* If OPM estimates or determines that fees are likely to exceed $250, OPM may require the payment of applicable fees in advance.

(1) If an OPM official, who is authorized to make a decision on a particular request, determines that the requester has a history of prompt payment of FOIA fees, OPM will provide notice of the likely cost and obtain satisfactory assurances of full payment.

(2) When a person, or an organization that a person represents, has previously failed to pay any fee charged in a timely manner, OPM will require full payment of all fees in advance. In this section, an untimely payment is considered to be a payment that is not made within 30 days of the billing date.

(3) OPM will not begin to process any new request for records, if a person, or an organization that a person represents, has not paid previous fees, until that individual has paid the full amount owed plus any applicable interest and made a full advance payment for the new request.

(4) If a request, which requires the advance payment of fees under the criteria specified in this section, is not accompanied by the required payment, OPM will promptly notify the requester that he or she must pay the required fee within 30 days and that OPM will not

further process the request until it receives payment.

(5) OPM may begin assessing interest charges on an unpaid bill starting on the 31st day following the date on which the bill was sent. Interest will be at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date of the billing.

(6) To encourage the repayment of debts incurred under this subpart, OPM may use the procedures authorized by Pub. L. 97-365, the Debt Collection Act of 1982. This may include disclosure to consumer reporting agencies and the use of collection agencies.

(d) *Waiver of fees.* OPM will furnish documents under this subpart without any charge, or at a reduced charge, if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and is not primarily in the commercial interest of the requester.

(1) Anyone who asks for waiver of fees under this section, must explain why he or she is entitled to a waiver. The explanation must be in sufficient detail to allow OPM to make an informed decision on the waiver request. A statement that essentially quotes section 552(a)(4)(A)(iii) of the Freedom of Information Act or the provisions of this section, does not satisfy this requirement. An OPM official may deny a waiver of fees without further consideration if the required explanation is not provided.

(2) A requester may appeal the denial of a waiver request as provided by § 294.110.

(e) *Rates used to compute fees.* The following rates form the basis for assessing reasonable, standard charges for document search, duplication, and review as required by 5 U.S.C 552(a)(4). The listing of rates below should be used in conjunction with the fee components listed in paragraph (f) of this section, the first-100-pages of paper copies exception in paragraph (g) of this section, and the first-2-hours manual records search exception in paragraph (h) of this section.

Employee time...Salary rate plus 16% to cover benefits.
Photocopies (up to 8½" × 14")..... $0.13 a page.
Printed materials, per 25 pages or fraction thereof..... $0.25.
Computer time..... Actual direct cost.
Supplies and other material...Actual direct cost.
Other costs not identified above...Actual direct cost.

(f) *Fee components by category of user.* For the purpose of assessing fees under this section, requests may have three cost components. These are the cost of document search, the cost of duplication, and the cost of review. When computing the fee applicable to a request, OPM will apply the rates in paragraph (e) of this section, to the cost components that apply to the requesters category. Cost components apply to categories of requesters as follows:

(1) A commercial use requester—Pays actual direct costs for document search, duplication, and review.

(2) A requester from an educational and non-commercial scientific institution and a representative of the news media—Pays actual direct costs for document duplication when records are not sought for commercial use. (Requesters in this category do not pay for search and review.)

(3) All other requesters—Pay actual direct costs for document search and duplication. (Requesters in this category do not pay for review.)

(g) *First 100 pages of paper copies.* There will be no charge to categories of requesters included in paragraphs (f) (2) and (3) of this section for the first 100 pages of paper copies, size 8½" by 11" of 11" by 14" or for a reasonable substitute for this number of copies. An example of a reasonable substitute is a microfiche containing the equivalent of 100 pages.

(h) *First 2 hours of manual records search.* OPM will not charge requesters in the "all other" category for the first 2 hours of manual records search. If a person asks for records from a computerized data base, OPM will use the following formula, promulgated by the Office of Management and Budget, to provide the equivalent, in computer records search time, of 2 hours of manual records search.

(1) OPM will add the hourly cost of operating the central processing unit that contains the record information to the operator's hourly salary plus 16 percent.

(2) When the cost of a search (including the operator's time and the cost of operating the computer to process a request) equals the equivalent dollar amount of 2 hours of the salary of the person performing the search (i.e., the operator), OPM will begin assessing charges for computer search.

§ 294.110 Appeals.

(a) When an OPM official denies records or a waiver of fees under the Freedom of Information Act, the requester may appeal to the—

Office of the General Counsel, Office of Personnel Management, Washington, DC 20415

(b) A person may appeal denial of a Freedom of Information Act request for information maintained by OPM's Office of the General Counsel to the—

Deputy Director, Office of Personnel Management, Washington, DC 20415

(c) If an official of another agency denies a Freedom of Information Act request for records in one of OPM's Government-wide systems of records, the requester should consult that agency's regulations for any appeal rights that may apply. An agency may, at its discretion, direct these appeals to OPM's Office of the General Counsel.

(d) An appeal should include a copy of the initial request, a copy of the letter denying the request, and a statement explaining why the appellant believes the denying official erred.

(e) The appeals provided for in this section constitute the final levels of administrative review that are available. If a denial of information or a denial of a fee waiver is affirmed, the requester may seek judicial review in the district court of the United States in the district in which he or she resides, or has his or her principal place of business, or in which the agency records are situated, or in the District of Columbia.

§ 294.111 Custody of records; subpoenas.

(a) The Chief, Information Systems Plans and Policies Division, Administration Group, OPM, has official custody of OPM records. A subpoena or other judicial order for an official record from OPM should be served on the—

Chief, Information Systems Plans and Policies Division, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415

(b) See § 297.505 of this chapter for the steps other officials should take on receipt of a subpoena or other judicial order for an official personnel record.

* * * * *

Subpart D—Cross References

§ 294.401 References.

The table below provides assistance in locating other OPM regulations in Title 5 of the Code of Federal Regulations that have provisions on the disclosure of records:

Type of information	Location
Classification appeal records.	511.616
Classified information	175.101
Employee performance folders.	293.311
Examination and related subjects records.	300.201
Grade and pay retention records.	536.307
Investigative records	736.105
Job grading reviews and appeals records.	532.707
Leave records	297 Subpart E.
Medical information	297.204 & 297 Subpart E

Type of information	Location
Official Personnel Folders	293.311
Privacy and personnel records	297
Retirement	831.106

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 278

[Amdt. No. 280]

Food Stamp Program; Retailer/ Wholesaler Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements the three provisions of the Food Security Act of 1985 (Pub. L. 99-198, 99 Stat. 1354, et seq.) which revised sections 3(k), 9(c) and 12(e) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2011 *et seq.*). The first provision amends the definition of retail food store to require that sales volume at the time of application be determined by visual inspection, sales records, purchase records, or other inventory or accounting methods which are customary or reasonable in the retail food industry. The second provision affects the sellers of retail food stores and wholesale food concerns who sell their firms during a disqualification period by making the seller subject to continued disqualification and to a civil money penalty which the Secretary may request the Attorney General collect through civil litigation. A bona fide purchaser or transferee is not subject to the civil money penalty and is not required to furnish a bond to be authorized to accept food stamps. The third provision of the Food Security Act contained in this rule concerns the release of information which firms are required to submit to the Food and Nutrition Service (FNS) regarding their participation in the Food Stamp Program (FSP). Under this provision, such information may be released by FNS to State agencies administering the Special Supplemental Food Program for Women, Infants and Children (WIC) so as to improve WIC Program compliance by participating retail stores. This rule also requires withdrawal from the Food Stamp Program of firms which are removed from the WIC Program as a result of violations of that program's regulations.

EFFECTIVE DATE: The provisions of this rule contained in § 278.1(o) shall be effective May 22, 1987 All other provisions of this rule are effective retroactively to April 1, 1987 because Pub. L. 99-198 specifically requires this effective date.

FOR FURTHER INFORMATION CONTACT: Emory Rice, Supervisor, Retailer Participation and Program Litigation Section, at 3101 Park Center Drive, Eligibility and Monitoring Branch, Program Development Division, Food and Nutrition Service, USDA, Alexandria Virginia 22302. (703) 756-3427

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The rule will affect the economy by less than $100 million a year. The rule will not raise costs or prices for consumers, industries, government agencies or geographic regions. There will be no adverse effects upon competition, employment, investment, productivity, innovation, or upon the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified the rule as "not major"

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.1551. For the reasons set forth in the Final rule, related Notice(s) to 7 CFR Part 3015 subpart V (Cite 48 FR 29115, June 24, 1983; or 48 FR 54317 December 1, 1983, as appropriate, and any subsequent notices that may apply), this program is excluded from the scope of Executive Order 12372 which requires intergovermental consultation with State and local officials.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96-354. S. Anna Kondratas, Acting Administrator of the Food and Nutrition Service, has certified that this action, while affecting some retail food firms, will not have a significant impact on a substantial number of small entities. This rule may have a significant economic impact on some small entities affected by the rule. However, only a small number of firms will be affected.

Paperwork Reduction Act

This regulation does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act.

Justification for Publishing a Final Rule Effective Less Than Thirty Days From Publication.

Pub. L. 99-198, Section *1583,* mandates that certain of the provisions of this final action be effective April 1, 1987 Therefore, implementation of the provisions concerning determination of food sales volume, procedures when a disqualified store is sold and release of information on firms to WIC State agencies must occur no later than April 1, 1987 Thus, publication of the prescribed provisions not less than 30 days prior to the effective date is not required under 5 U.S.C. 553(d) because implementation of those provisions of the rule by April 1, 1987 is mandated by law.

Background

On December 3, 1986, the Department published in the **Federal Register** a proposed rule to implement three provisions of the Food Security Act of 1985 (Pub. L. 99-198, 99 Stat. 1354 *et seq.*) which revised sections 3(k), 9(c) and 12(e) of the Food Stamp Act of 1977 as amended (7 U.S.C. 2011 *et seq.*). The proposed rule also required withdrawal from the Food Stamp Program of firms which are removed from the WIC Program as a result of violations of that program's regulations. A 60 day comment period was provided.

A total of 53 comment letters were received as of February 17 1987 Of these comment letters, 44 express support for the WIC provisions and 2 support the entire proposed rule as written.

Determination of Food Sales Volume at Time of Application (§ 271.2)

One commenter expressed support for the change in the definition of retail food store to include the statement that sales volume is to be determined by visual inspection, sales records, purchase records, or other inventory or accounting methods that are customary or reasonable in the retail food industry. The commenter did not seem to realize that this provision reflects existing FNS practice. The Department has decided no change in the provision is required.

Procedures When a Disqualified Store is Sold (§ 278.6(f))

We received one general comment from a retailer associatior to the effect

that store owners should not be held responsible for the actions of their clerks. This comment does not relate to the purpose of this provision which is to prevent circumvention of sanctions by transferring the store. The Department has decided that no change to this provision is necessary.

Withdrawal of Firms for WIC Program Violations (§ 278.1(o))

The December 3, 1986, publication proposed withdrawal from the Food Stamp Program of firms which are removed from the WIC Program as a result of violations of that program's regulations.

One commenter suggested that firms whose contracts with the WIC Program are not renewed should be withdrawn from the Food Stamp Program. WIC Program vendors' contracts may not be renewed for a variety of reasons, including both violations of program regulations and administrative reasons. Firms are not afforded the opportunity to appeal State agency decisions not to renew WIC Program contracts. The Department does not believe that failure to renew a WIC Program contract is an acceptable reason for withdrawing a store's Food Stamp Program authorization since there may be no relationship between nonrenewal of the WIC contract and a firm's suitability as a food stamp retailer. Thus, the Department has decided against specifically requiring in this rule that firms be removed from the Food Stamp Program when their WIC Program contracts are not renewed.

The December 3, 1986, proposal provided that FNS *shall* withdraw the authorization of a firm which has been removed from the WIC Program for violations. One commenter suggested that the regulatory language should be changed to provide that FNS *may* withdraw such a store so that FNS could consider lesser sanctions such as a formal warning or FNS investigation. The Department believes that a store which has been determined, with due process, to have violated the WIC Program regulations has clearly demonstrated a lack of business reputation and integrity sufficient to warrant its removal from the Food Stamp Program. Thus, the Department has retained in this final rule the provision that FNS *shall* withdraw such firms.

The December 3, 1986, proposal specified that removal from the Food Stamp Program could be based on any act which constitutes a violation of the WIC Program's regulations and which is shown to constitute a misdemeanor or felony violation of law or for other specified program violations. One commenter pointed out that in some States WIC vendors may be disqualified from the WIC Program on the basis of a point system. Under this system stores may be disqualified for a mixture of violations, not all of which are the types of violations specified in the December 3 proposal. The Department believes that a firm should be withdrawn from the Food Stamp Program if any of the WIC Program violations which were the basis for the WIC disqualification were among those specified in this rule. The Department, therefore, has added language to § 278.1(o) to make it clear that a firm will be withdrawn from the Food Stamp Program if it is disqualified from the WIC Program and the WIC disqualification is based in whole or in part on the WIC violations specified in § 278.1(o) of this rule.

Another commenter stated that the provision which withdraws firms from the Food Stamp Program for WIC Program violations will result in an increase in appeals of WIC Program disqualifications. The Department recognizes that appeals of WIC disqualifications may increase as a result of this rule. In many cases, the potential loss of revenue for stores is much greater from withdrawal from the Food Stamp Program than from disqualification from the WIC Program. However, the Department believes that the possible increase in appeals is counterbalanced by the deterrent effect on violations that will be achieved by this rule. In addition, the Department believes that it is important for FNS to maintain this provision in the interest of cross-compliance by retail firms participating in both of these major Federal feeding programs.

One commenter expressed concern that the time required for WIC Program officials to notify Food Stamp Program (FSP) officials of WIC disqualifications and the time required to provide stores with notice of FSP disqualification and FSP appeal rights would reduce the time the store is withdrawn from the FSP Both the WIC notifications to FNS and the FSP withdrawal notices to stores will occur prior to the effective date of the WIC disqualification. Thus, the times required for these actions will not effect the length of the food stamp withdrawal. The time required for a store's administrative review of the food stamp withdrawal may delay the effective date of a sustained withdrawal somewhat. However, the review by the Food Stamp Review Officer is limited to confirming that the store has been disqualified and that the disqualification was based, in whole or in part, on one or more of the violations specified in this rule. The Department does not believe that this will be a long process and, thus, believes that any impact on the length of the food stamp withdrawal will be minimal.

Finally, the Department wishes to clarify § 278.1(o) of this rule which pertains to the withdrawal from the Food Stamp Program of firms which have been disqualified from the WIC Program. The December 3, 1986 proposal provided, at § 278.1(o)(7), that FNS shall not withdraw a firm's Food Stamp Program authorization unless the firm had been provided notice of the possible withdrawal prior to the time set for review of the WIC removal. The intent of this provision is to insure that the firm is notified of the possible withdrawal from the Food Stamp Program prior to expiration of the time period prescribed for *requesting* review of the WIC action. Thus, in order to protect due process as suggested by counsel, the Department has added language to § 278.1(o) to clarify the intent of this provision. In addition, the paragraphs in Section 278.1(o) are being renumbered to correct a technical oversight in the December 3, 1986 publication.

Release of Information on Firms to WIC State Agencies (§ 278.1(q))

The December 3, 1986, publication proposed that information which a firm is required to submit to FNS under section 9(c) of the Food Stamp Act of 1977 as amended (7 U.S.C. 2018(c)) may be released to WIC State agencies. This provision is based on an amendment to the Food Stamp Act contained in section 1521 of the Food Security Act of 1985. Previously FNS had been prohibited by law from releasing information submitted by firms to WIC State agencies. Only two comments were received on this provision. These commenters suggested that FNS should release to WIC State agencies information about firms other than that submitted to FNS by the firms. Specifically, the commenters were interested in receiving information on which firms have been determined to possibly be violating Food Stamp Program rules and information on Food Stamp Program investigations. FNS has always had the authority to release such information to WIC State agencies provided protected information was not included. In fact, in many areas information on investigations is being released in various forms to WIC State agencies. Since FNS has the authority to release this information and does currently provide this information to WIC State agencies, the Department does not believe it is necessary to

provide for this authority in the rule. Thus, the provision for release of information to WIC State agencies is being adopted in this final rule as proposed.

Implementation

The provisions of this final rule contained in § 278.1(o) are effective May 22, 1987 All other provisions of this rule will become effective April 1, 1987

List of Subjects

7 CFR Part 271

Administrative practice and procedures, Food stamps, Grant programs-Social programs.

7 CFR Part 278

Administrative practice and procedures, Banks, Banking claims, Food stamps, Groceries-retail, Groceries, General line-wholesaler penalties.

Therefore, 7 CFR Parts 271 and 278 are amended as follows:

1. The authority citation for Parts 271 and 278 continues to read:

Authority: 7 U.S.C. 2011–2029.

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2 Definitions, the definition of "Retail food store" is amended by adding after the words "food sales volume" in paragraph (1) the following, "as determined by visual inspection, sales records, purchase records, or other inventory or accounting recordkeeping methods that are customary or reasonable in the retail food industry"

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

3. In § 278.1:

a. Paragraph (b)(4)(ii) is amended by adding a new sentence after the last sentence.

b. Paragraphs (o), (p), (q), and (r) are redesignated as paragraphs (p), (q), (r), and (s) respectively and a new paragraph (o) is added. Newly designated paragraph (r) is revised.

The additions and the revision read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(b) * *

(4) * * *

(ii) * * A buyer or transferee shall not, as a result of the transfer or purchase of a disqualified firm, be required to furnish a bond prior to authorization.

* * * * *

(o) Removal from the Special Supplemental Food Program, for Women, Infants, and Children (WIC)

(1) FNS shall withdraw the Food Stamp Program authorization of any firm which is disqualified from the WIC Program based in whole or in part on any act which constitutes a violation of that program's regulation and which is shown to constitute a misdemeanor or felony violation of law, or for any of the following specific program violations:

(i) Claiming reimbursement for the sale of an amount of a specific food item which exceeds the store's documented inventory of that food item for a specified period of time.

(ii) Exchanging cash or credit for WIC food instruments;

(iii) Receiving, transacting and/or redeeming WIC food instruments outside of authorized channels;

(iv) Accepting WIC food instruments from unauthorized persons;

(v) Exchanging non-food items for a WIC food instrument;

(vi) Charging WIC customers more for food than non-WIC customers or charging WIC customers more than current shelf price; or

(vii) Charging for food items not received by the WIC customer or for foods provided in excess of those listed on the food instrument.

(2) FNS shall not withdraw the Food Stamp Program authorization of a firm which is disqualified from the WIC Program unless prior to the time prescribed for securing review of WIC disqualification action, the firm was provided notice that it could be withdrawn from the Food Stamp Program based on the WIC violation. Once a firm has served the period of removal from WIC specified by the State agency, the firm may reapply for Food Stamp Program authorization and be approved if otherwise eligible.

* * * *

(r) Safeguarding privacy. The contents of applications or other information furnished by firms, including information on their gross sales and food sales volumes and their redemptions of coupons, may not be used or disclosed to anyone except for purposes directly connected with the administration and enforcement of the Food Stamp Act and these regulations, except that such information may be disclosed to and used by State agencies that administer the Special Supplemental Food Program for Women, Infants and Children (WIC). Such purposes shall not exclude the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law.

* * * * *

4. In § 278.6, the text of paragraph (f) is redesignated as paragraph (f)(1). New paragraphs (f)(2), (f)(3), and (f)(4) are added to read as follows:

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

* * * * *

(f) Criteria for civil money penalty. * * *

(2) In the event any retail food store or wholesale food concern which has been disqualified is sold or the ownership thereof is otherwise transferred to a purchaser or transferee, the person or other legal entity who sells or otherwise transfers ownership of the retail food store or wholesale food concern shall be subjected to and liable for a civil money penalty in an amount to reflect that portion of the disqualification period that has not expired, to be calculated using the method found at § 278.6(g). If the retail food store or wholesale food concern has been permanently disqualified, the civil money penalty shall be double the penalty for a ten year disqualification period. The disqualification shall continue in effect at the disqualified location for the person or other legal entity who transfers ownership of the retail food store or wholesale food concern notwithstanding the imposition of a civil money penalty under this subsection.

(3) At any time after a civil money penalty imposed under paragraph (f) (2) of this section has become final under the provisions of Part 279, the Food and Nutrition Service may request the Attorney General institute a civil action to collect the penalty from the person or persons subject to the penalty in a district court of the United States for any district in which such person or persons are found, reside, or transact business.

(4) A bona fide transferee of a retail food store shall not be required to pay a civil money penalty imposed on the firm prior to its transfer. A buyer or transferee (other than a bona fide buyer or transferee) may not be authorized to accept or redeem coupons and may not be authorized to accept or redeem coupons until the Secretary receives full payment of any penalty imposed on such store or concern.

* * * *

5. Section 278.9 is amended by adding a new paragraph (f) as follows:

§ 278.9 Implementation of amendments relating to participation of retail food stores, wholesale food concerns and insured financial institutions.

* * * * *

(f) *Amendment No. 280.* The provisions for Part 271 and §§ 278.1(r) and 278.6(f) of No. 280 are effective retroactively to April 1, 1987 The provision for § 278.1(o) is effective May 22, 1987

Dated: April 16, 1987.

S. Anna Kondratas,

Acting Administrator.

[FR Doc. 87-8991 Filed 4-21-87; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS Number 1015-87]

Nonimmigrant Classes; F-1 Academic Students

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: The Immigration and Naturalization Service is revising the regulations regarding F-1 academic students to streamline administrative procedures and eliminate burdensome paperwork while maintaining control over students by more effective use of institutional sponsorship of the students by the schools. This rule is a refinement of a major revision to the student regulatory package published on April 5, 1983 at 48 FR 14575.

EFFECTIVE DATE: May 22, 1987

FOR FURTHER INFORMATION CONTACT: Joseph D. Cuddihy, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3320.

SUPPLEMENTARY INFORMATION: On August 4, 1986, the Service published proposed regulations relating to F-1 nonimmigrant students and schools approved for their attendance in the Federal Register at 51 FR 27867 The sixty-day comment period ended October 3, 1986.

The regulations proposed to change the definition of duration of status, to change the procedures for a nonimmigrant student to transfer between schools, to streamline the process for a nonimmigrant student to obtain a first period of practical training upon graduation, and to require the Service to deny any change of status request for change of nonimmigrant status from student to temporary worker (H classification) when the student has engaged in practical training after completion of studies.

Seventy-seven individuals and organizations submitted written comments on the proposed regulations. Fifty commenters stated that they were in general agreement with the rule, while nine opposed it. Eighteen commenters did not express a general opinion, commenting only on a specific portion of the proposal. Many commenters made observations on various specific parts of the proposal. The Service has carefully analyzed all comments and has identified six major areas of concern, as well as a number of general and technical points. The major areas of concern are:

(1) Limitations on and exceptions to the term "duration of status"

(2) Requirements for seeking school transfer,

(3) Requirements for granting practical training,

(4) Special requirements for practical training for students engaged in work-study programs,

(5) Changes to the recordkeeping requirements, and

(6) Bar of change to H nonimmigrant status.

Duration of Status

Under current regulations, F-1 nonimmigrant students are considered to be in status while pursuing a full course of study in only one educational program (e.g., elementary school, high school, bachelor's degree or master's degree) and any period or periods of authorized practical training, plus thirty days.

In the proposed regulations, duration of status was defined to mean the period during which a student is pursuing a full course of studies in any educational program, and any period or periods of authorized practical training, plus sixty days. The definition was limited, in that a student who has been in status for eight consecutive academic years would be required to file for extension of stay. There were also three exceptions to the duration of status definition in the proposed rule. A student who goes out of status because he/she meets one of these exceptions would be required to apply for reinstatement in order to be put back into duration status. The proposal also indicated conditions under which a student could engage in less than a full course of study and still be considered in status.

Thirty-six individuals commented on various aspects of the definition, limitations and exceptions to duration of status. All commenters were in favor of the extension of the duration of status to all levels of study. Seventeen commenters indicated opposition to use of the phase "limited to" when describing reasons for which a person could be considered in status while engaging in less than a full course of study, indicating that the reasons given were not inclusive enough, and recommending that the phrase "such as" or "for example" be substituted. They also objected to the Service's allowing a person to be less than full-time student during only one term of a program of studies, citing the parts of the proposed rule dealing with exceptions to duration of status as sufficient to correct abuse. Three commenters also objected to the Service's indicating that such a student would be in status during an illness but for no other reason. They recommended that there may be other legitimate medical reasons (such as pregnancy or a legitimate family emergency) during which a student should still be considered in status. Three commenters also objected to the Service's stating that a foreign student may take less than a full course of studies when "directed" to do so by a designated official, indicating that designated officials do not direct, but merely advise, a course of action.

In this final rule, the Service has revised the language to indicate that a designated official may advise a student, and deleted the provision that a person may be less than a full-time student only once during a program of studies, agreeing that other parts of the regulation will control abuse of this provision. The final rule also indicates that a student will be considered in status for medical conditions other than illness. The Service feels that to extend this provision even further to individuals who have a family emergency would leave the provision open to too wide an interpretation and would lead to inconsistency, and therefore rejected that recommendation.

Similarly, the final rule limits the valid academic reasons for which a student may be considered to be in status. If these reasons were only considered examples, there would be no definitive guidelines for designated school officials and the reasons would be subject to individual interpretation. In addition, the Service would have no method for systematically reviewing the interpretations used by designated school officials.

Comments also recommended that the limitations and exceptions to the duration of status definition be dropped

entirely. Several commenters indicated that the exceptions actually caused the definition to become a "date certain" provision, a provision that was contained in the regulation in the past and has been discarded as too cumbersome to administer. Concern was expressed that the Service was intruding into what should be an academic decision between the school and its individual students. It was also suggested that the penalty for exceeding the maximum time limits expressed in these exceptions (being declared out of status and having to request reinstatement), was too harsh for the violation, and would place an excessive workload on both the schools and the Service to administer.

The exceptions to the duration of status provisions were placed in the proposed regulation to insure that the Service could review the status of a student who was taking a significant period of time to complete a specific educational program, above and beyond what the school had estimated would be the expected completion date when the student began the program. The Service feels that the time elements are generous and that the provisions will affect a very small percentage of individuals, as the vast majority of foreign students progress toward their educational objectives in a satisfactory manner, well within the time limits set by the exceptions. The Service does, however, accept the recommendation that the review be conducted by way of application for extension of stay, rather than reinstatement.

Accordingly, in the final rule, an individual will be required to submit an application for extension of stay to the Service if, based on the date on the Form I-20 A-B issued at the beginning of the program, the individual exceeds the applicable maximum time period expressed in paragraph 7(b). It should also be noted that the Service has added language to clarify that this date changes as a student progresses to each educational level, but the date does not change while a student remains at the same educational level. Thus, a student admitted in a bachelor's degree program which the school indicates he will complete in 4½ years needs to request an extension of stay if he is going to remain in any bachelor's degree program more than six years. If he/she transfers between schools, still seeking a bachelor's degree, or changes majors, still seeking a bachelor's degree, the date on which he/she needs to request an extension does not change. If the same student completes that bachelor's degree program in 4½ years, and then transfers (either at the same school or to a different school) to a master's degree program which the school indicates he/she will complete in 2½ years, the student would never have to complete an extension of stay application unless he/she needed to continue the master's degree program more than 3½ years beyond the date the master's program began. A student may continue to attend school while an application for extension is pending. The student must establish there are valid educational reasons for not completing the program in the allotted time before the extension will be granted.

The final rule requires the Service to come in contact with only those students who are taking a significantly longer period of time to complete a program than what the school originally anticipated, and to review the validity of the reasons for that delay, or to come in contact with students who have been in the United States for eight consecutive years.

Transfer Procedures

Sixteen individuals and organizations indicated a desire to include a mechanism to inform the school from which a student was transferring that the transfer had been completed. They all indicated that the schools had a responsibility for the student until the transfer had been completed. In addition, sixteen commenters discussed what was perceived to be a new requirement for the designated school official to insure that a student was taking a full course of study at the school the student was last authorized to attend before effecting a transfer. Two commenters indicated the fifteen-day time period for a school official to forward documents to the Service on transfer was too short. All commenters favored the decision in the proposed regulation to streamline and simplify the transfer procedures.

The final rule requires the designated school official at the school to which the student is transferring to provide a copy of the completed transfer of Form I-2.0 A-B to the school from which the student is transferrring. The Service recognizes that the procedure will be cumbersome, and will include a sheet in the next revision of Form I-20 A-B to accomplish this without photocopying.

The current regulations require a student to establish that he/she is a bona fide nonimmigrant student who has been taking a full course of study at the last school which he/she was authorized to attend before a same-level transfer may be authorized. The proposed regulation emphasized that the designated official of the new school must ascertain whether this is true before effecting a transfer. It is anticipated that this can be determined in a variety of ways, whichever is most convenient for the designated official, such as review of the student's prior transcript, knowledge of admissions requirements and procedures, or personal contact with the designated official at the prior school. A particular school may also place the burden on the student to provide this evidence at the time the transfer is completed. The Service feels that the fifteen-day time period in the proposed regulations is sufficient for forwarding documents to the Service.

Practical Training

Four commenters objected to the proposal to allow designated officials to certify eligibility for practical training in situations where the designated official and the head of the student's academic department or professor both certify that employment comparable to the proposed employment is not available to the student in the country of the student's last foreign residence. In addition, five individuals or organizations indicated that the certification should not be required at all, or that the certification should not be required for students who accept practical training prior to graduation. Four individuals stated that the list of individuals who can make the certification should be expanded, while eight individuals stated that the time period during which a student is barred from accepting practical training (nine months) should be lowered.

In the final rule, the Service has eliminated the need for a certification regarding availability of training in the home country only for those individuals attending a school which requires or makes optional practical training for candidates for a degree in that field. It is felt the certification is not necessary in those instances. The final rule retains the authority of a designated official to certify practical training but does not expand the list of those who may certify, as the intent is to limit this authority to those who would have the best opportunity to know the world-wide employment situation in a particular field. The final rule also retains the nine-month bar for accepting practical training, as it is felt the initial goal of the educational process should be academic achievement.

Work-Study

Twenty commenters also questioned the placement of paragraph (10)(iii)(D)(1) regarding work-study

programs in the section on practical training after completion of studies. It was requested that the Service better defiene the work-study concept to be more in line with previously articulated Service policy, namely that "work-study" can be accomplished in either alternating terms or parallel terms (where a student takes classes for part of the day and works for part of the day). In addition, twenty commenters objected to the proposal that students who engage in work-study programs be barred from participating in practical training after completion of studies.

The final rule retitles this section "Curricular practical training programs" to more closely coincide with the statement of previous Service policy, and places this section in the paragraph on practical training prior to graduation. The final rule also describes a mathematical computation which will bar participation in post-completion practical training to some, but not all, students who engage in this type of employment experience.

Changes to the Record-Keeping Requirements

Nine commenters specifically addressed the changes in the record-keeping requirements. It was pointed out that the retention of the student's admission number and nonimmigrant class are vital to the record report system, and therefore should be added to the record-keeping requirements. Four commenters applauded the Service for bringing the record-keeping requirements more in line with the Requirements of the Family Education Rights and Privacy Act of 1974 (FERPA), although three additional commenters indicated that other changes should be made. One commenter pointed out that the time within which the school was allowed to respond to the Service's request for information were inappropriate if the Service was holding an individual in custody. Seven additional commenters mentioned that the time periods for response may not be sufficient at large schools.

The final rule adds a requirement that the school keep a photocopy of the student's I-20ID copy, so that the additional data mentioned in the comments can be captured. Language has also been added to indicate that a school is required to respond orally on the same day to an oral request for information concerning a student in custody and that the school may ask for a formal written request after the fact, if the school so desires. The record-keeping requirements have been brought in line with the Service's interpretation of the FERPA requirements, and no additional changes were made. The Service also feels that the time elements for response are sufficient.

Change to H Nonimmigrant Status

Fifty-four comments were received by the Service concerning the proposal to bar F-1 students who have engaged in practical training after completion of studies from changing nonimmigrant status to the H category. Twelve individuals commented in favor of the rule, including six who specifically stated they could accept a grandfather clause provision. Forty-two commenters were opposed to the provision, including six who indicated they would favor the provision if a grandfather clause were added.

There were four general areas of concern expressed by those not in favor of the regulation as proposed. First, some commenters indicated that the proposal would have an adverse effect on the ability of United States businesses to hire qualified workers. It was pointed out both that those who are in practical training create a pool of desirable new employees, and that in some cases, practical training situations often legitimately evolve into situations which require a temporary worker. The Service has a great concern for the needs of American business, and recognizes the need to balance the needs of business with the protection of the labor market. In addition, in this particular situation, the general concerns of the educational exchange community must also be taken into account. It is felt by the Service that the needs of the business community can more than adequately be met by the ability to obtain the services of these particular individuals immediately upon graduation, if they intend to fill a temporary position.

The second concern expressed the feeling that the proposed regulation is a contradiction of the statute, which specifically provides for such a change of status, and that the Service has therefore overstepped its regulatory authority in the proposal. Section 214 of the Act gives the Attorney General sole authority to control the admission and conditions of stay of nonimmigrants in the United States. Section 248 gives the Attorney General discretionary authority to change the nonimmigrant status of individuals who meet certain requirements. The Service currently precludes the approval of an application for certain nonimmigrants in the M-1 classification in a regulation which parallels the proposal at 8 CFR 248.1(d). Based on these facts, it is determined the Service would not be overstepping its regulatory authority by implementing the proposed regulation.

The third point raised in the comments is that the proposed regulation discriminates against individuals who are already in practical training programs, and entered those programs with the understanding that a change of nonimmigrant status to a temporary worker category would be permitted under the regulations. The Service accepts this premise.

The fourth point raised is that the Service is revising the regulations merely on a preception that abuse of the system is occurring when, in fact, either there is no abuse or the abuse is minimal. The Service agrees that a regulation of such impact should not be promulgated without sufficient statistical data to either substantiate or refute this perception. Therefore, the Service has deleted the proposal to require the Service to deny any change of status request for change of nonimmigrant status from student to temporary worker (H classification) when the student has engaged in practical training after graduation. The Service may again propose some action after studying whether abuse of the practical training system is occurring.

General Comments

Four individuals indicated a sense that the proposed regulation shifted the burden for record-keeping and accountability for students from the Service to designated school officials. Two indicated that they felt there would be a much higher percentage of the school officials' time devoted to immigration matters if the proposed regulation were put into effect. These comments were contrasted with more numerous comments indicating that the ability to effect change without Service involvement (especially the notification transfer procedure and the certification of the first period of practical training) would significantly reduce the amount of time a designated school official spent on immigration matters. The Service sees no additional changes that could be made, nor were any specifically recommended, to further reduce this workload.

There commenters indicated that the Service, by eliminating itself from certain actions, is abrogating its enforcement responsibility. On the contrary, the Service believes that implementation of this regulation will allow it to concentrate resources on the small number of students who are most likely to violate the regulations, and therefore takes a more responsible approach to enforcement of the

regulations. At this time, the Service does intend to again require, within one year of the effective date of this regulation, the submission of Form I-721 from designated officials.

Technical Comments

There were five technical points that were raised by commenters. Five commenters indicated agreement with paragraph (4)(ii) of the proposal, regarding notation on the visa page of students who have transferred. One commentor accurately stated that in certain circumstances, Service inspectors will need to endorse Form I-20AB upon readmission of certain students, in order for the Service's computer database to be updated. A sentence of this effect has been added to the regulation.

Four commenters stated that the phrase "post-graduate" as used in paragraph (f)(5)(i) was inappropriate. They recommended the phrase "post-doctoral" This change was incorporated into the final regulation. One commenter pointed out the Service practice of admitting a foreign student for thirty days with Form I-515 is contrary to the definition of duration of status in paragraph (f)(5)(ii). As the Service desires to continue use of the I-515 procedure, the definition was revised. Two commenters objected to allowing district directors to review the decision of a designated school official to allow a person to carry less than a full course of study. Both saw this as an intention of the Service to "second-guess" the designated school official. This requirement is currently in the regulation, and the Service is not aware of any abuse by Service officers. The intent is to acknowledge that a final determination still rests with the Service.

In paragraph (f)(10)(iii)(A), ten commenters indicated that requiring a student in practical training to submit a request for a second period "immediately" upon employment is imprecise, and will lead to confusion. The final rule replaces the term with a more definitive term.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule will not have a significant economic impact on a substantial number of small entities. While portions of the rule deal with record-keeping requirements, compliance with them will not result in a significant effect on the economy or operation of the affected institutions or individuals. The rule is not a major rule within the meaning of section 1(b) of E.O. 12291. The information collections contained in this rule have been cleared under Paperwork Reduction Act.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Schools, Students.

For the reasons set forth in the preamble, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for Part 214 is revised to read as follows:

Authority: Secs. 101, 103 and 214 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101, 1103 and 1184.

2. In § 214.2, paragraphs (f)(4)(ii), (5), (6)(ii)–(v), (7), (8), and (10) are revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) * * *

(4) * * *

(ii) *Student who intends to transfer or has transferred between schools.* If an F-1 student has transferred or intends to transfer between schools and has been issued an I-20A-B by the school to which he or she has or intends to transfer, the name of the new school does not have to be specified on the student's visa to allow reentry into the United States after a temporary absence. If the student has not yet attended the new school, the inspecting officer will endorse Form I-20 ID Copy to indicate the new school, and will endorse Form I-20A-B and forward it to the Service's Data Processing Center.

(5) *Duration of status*—(i) *General.* For purposes of this chapter, duration of status means the period during which the student is pursuing a full course of studies in any educational program (e.g., elementary or high school, bachelor's or master's degree, doctoral or post-doctoral program) and any periods of authorized practical training, plus sixty days within which to depart from the United States. An F-1 student who continues from one educational level to another is considered to remain in status, provided the transition to the new educational program is accomplished according to the transfer procedures outlined in paragraph (f)(8) of this section. An F-1 student at an academic institution is considered to be in status during the summer if the student is eligible, and intends to register for the next term. A student attending a school on a quarter or trimester calendar who takes only one vacation a year during any one of the quarters or trimesters instead of during the summer, is considered to be in status during that vacation provided the student is eligible, intends to register for the next term, and has completed the equivalent of an academic year prior to taking the vacation. A student who is compelled by illness or other medical condition to interrupt or reduce a course of study is considered in status during the illness or other medical condition. The student must resume a full course of study upon recovery.

(ii) *Condition.* Subject to the condition that the alien's passport is valid for at least six months at all times while in the United States, including any automatic revalidation accorded by the agreement between the United States and the country which issued the alien's passport (unless the alien is exempt from the requirement for presentation of a passport):

(A) Any alien admitted to the United States as an F-1 student is to be admitted for duration of status as defined in paragraph (f)(5)(i) of this section except that a student may be admitted for 30 days with Form I-515; and

(B) Any alien granted a change of nonimmigrant classification to that of an F-1 student is considered to be in status for duration of status as defined in paragraph (f)(5)(i) of this section.

(iii) *Conversion to duration of status.* Any F-1 student in college, university, seminary, conservatory, academic institution, or language training program who is pursuing a full course of study and is otherwise in status as a student, is automatically granted duration of status. The dependent spouse and children of the students are also automatically granted duration of status if they are maintaining F-2 status. Any alien converted to duration of status under this paragraph need not present Form I-94 to the Service. This paragraph constitutes offical notification of conversion to duration of status. The Service will issue a new Form I-94 to the alien when the alien comes into contact with the Service.

(6) * *

(ii) Undergraduate study at a college or university, certified by a school official to consist of at least twelve semester or quarter hours of instruction per academic term in those institutions using standard semester, trimester, or quarter hour systems, where all undergraduate students who are enrolled for a maximum of twelve semester or quarter hours are charged full-time tuition or are considered full-time for other administrative purposes, or its equivalent (as determined by the district director in the school approval process), except when the student needs

a lesser course load to complete the course of study during the current term;

(iii) Study in a post-secondary language, liberal arts, fine arts or other non-vocational program at a school which confers upon its graduates recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning within category (1) or (2) of § 213.3(c), and which has been certified by a designated school official to consist of at least twelve clock hours of instruction a week, or its equivalent as determined by the district director in the school approval process;

(iv) Study in any other language, liberal arts, fine arts, or other nonvocational training program, certified by a designated school official to consist of at least eighteen clock hours of attendance a week provided that the dominant part of the course of study consists of classroom instruction, and twenty-two clock hours a week provided that the dominant part of the course of study consists of laboratory work; or

(v) Study in a primary or academic high school curriculum certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation.

A designated official may advise an F-1 student to engage in less than a full course of study for valid academic reasons, limited to English language difficulties; unfamiliarity with American teaching methods or reading requirements; or improper course level placement. Although permission of the Service is not required to advise a student to take less than twelve semester or quarter hours, whether a student is, in fact, considered to be pursuing a full course of studies is subject to review and approval by the Service.

(7) *Extension of stay*—(i) *Request after eight consecutive academic years.* Any student who has been in student status for eight consecutive academic years must request an extension of stay from the Service. The application must be submitted to the Service on Form I-538. A student who has submitted an application for extension of stay may continue in student status until a decision is rendered by the Service. Departures from the United States of short duration during the academic year or during a vacation period do not break the continuity of a period of stay. Once a student has been granted an extension of stay, he or she does not have to request another extension until an additional eight-year period has elapsed.

(ii) *Request after extended period in one academic level.* Students who remain in one educational level for an extended period of time must request an extension of stay. The applicant must be submitted to the Service on Form I-538. The applicant must establish that there are valid academic reasons for going beyond the time limits. A student is required to request an extension of stay when according to the date on Form I-20A-B issued at the beginning of his or her program at the particular educational level:

(A) Studies are expected to be completed in two years or less, and the course is not completed within six months after the date studies are expected to be completed; or

(B) Studies are expected to be completed in more than two but within four years, but the course is not completed within one year after the date the studies are expected to be completed.

(C) Studies are expected to be completed in more than four years, but the course is not completed within eighteen months after the date the studies are expected to be completed.

(8) *School transfer*—(i) *Eligibility.* An F-1 student is eligible to transfer to another school if the student:

(A) Is a bona fide nonimmigrant student;

(B) Has been pursuing a full course of study at the school the student was last authorized to attend during the term immediately preceding the transfer (or the last term preceding a vacation as provided in paragraph (f)(5)(i) of this section);

(C) Intends to pursue a full course of study at the school to which the student intends to transfer; and

(D) Is financially able to attend the school to which the student intends to transfer.

(ii) *Transfer procedure.* The following procedures must be followed before a transfer will be considered to be completed:

(A) The F-1 student must obtain a properly completed Form I-20A-B from the school to which the student intends to transfer. The student must inform the designated school official at the school the student is currently attending of his or her intention to transfer;

(B) The student must enroll in the new school in the first term after leaving the previous school or the first term after vacation as provided in paragraph (f)(5)(i) of this section. The student must complete page 2 of Form I-20A-B as instructed and submit the Form I-20A-B to a designated school official of the new school within fifteen days after the date the student begins classes at the new school; and

(C) The designated school official receiving the Form I-20A-B must:

(*1*) Sign the reverse side of the Form I-20 ID Copy in the space provided for the designated school official's signature, thereby acknowledging the student's attendance in class;

(*2*) Return the Form I-20 ID Copy to the student;

(*3*) Add the name of the school from which the student has transferred to the front page of Form I-20A-B, item 2(C), and initial the addition;

(*4*) Submit the Form I-20A-B to the Service's Data Processing Center within thirty days of receipt from the student; and

(*5*) Submit a copy of Form I-20A-B to the school which the student was last authorized to attend.

(iii) *Student not pursuing a full course of study.* A student who wants to transfer to another school but has not pursued a full course of study at the school the student was last authorized to attend must apply for and be granted reinstatement to student status in accordance with the provisions of paragraph (f)(12) of this section before he or she may request a transfer. The student must include Form I-20A-B from the school which he or she intends to attend, if reinstated. If reinstatement is granted, the student is eligible to attend the new school without transfer.

* * * * *

(10) *Practical training*—(i) *Practical training prior to completion of studies*—(A) *General.* Temporary employment for practical training prior to completion of studies may be authorized only:

(*1*) After completion of all course requirements for the degree (excluding thesis or equivalent), if the student is in a bachelor's, master's or doctoral degree program;

(*2*) If the student is attending a high school, college, university, seminary, or conservatory which requires or makes optional practical training of candidates for a degree in that field or for a high school diploma; or

(*3*) During the student's annual vacation if the student is attending a college, university, seminary, or conservatory.

A student may not be granted permission to accept practical training prior to completion of studies unless the student has been in student status for nine months. A student in a language training program may not be granted permission to accept practical training

prior to completion of studies. A student may not be granted practical training exceeding twelve months in the aggregate prior to completion of studies.

(B) *Making a request to accept practical training prior to completion of studies.* A student must submit a request for practical training prior to completion of a course of study to the designated school official of the school the student is authorized to attend. The request must consist of:

(*1*) A completed request for practical training on Form I-538;

(*2*) Form I-20 ID Copy; and

(*3*) A certification from the head of the student's academic department or the professor who is the student's academic advisor stating that upon his or her information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence (unless the student is applying under paragraph (f)(10)(i)(A)(*2*) of this section).

(C) *Action upon request to accept practical training prior to completion of studies.* The designated school official must:

(*1*) Certify on Form I-538 that the proposed employment is for the purpose of practical training, that it is related to the student's course of study, and that upon the designated school official's information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence (unless the student is applying under paragraph (f)(10)(i)(A)(*2*) of this section);

(*2*) Endorse the Form I-538 to show that practical training from (date) to (date) has been authorized, and send the form to the Service's Data Processing Center; and

(*3*) Endorse Form I-20 ID Copy with the endorsement "practical training prior to completion of studies from (date) to (date) authorized" and return the form to the student.

(D) *Curricular practical training programs.* An F-1 student enrolled in a college, university, conservatory, or seminary having a curricular practical training program (such as alternate work/study, internship, or cooperative education) as part of the regular curriculum may participate in the program without obtaining a change of nonimmigrant status. Such programs shall be treated similar to practical training prior to completion of studies as defined in paragraph (f)(10)(i)(A)(*2*) of this section. Periods of actual off-campus employment in any such program which is full-time (no concurrent coursework) will be deducted from the total of twelve months practical training time before graduation for which the student is eligible. Periods of actual off-campus employment in any such program in which coursework and employment are engaged at the same time ("parallel programs") will be deducted from the total of twelve months' practical training time at the rate of 50% (one month deducted for every two months of parallel coursework and practical training). A student who participates in a curricular practical training experience for which six months or more of the practical training time prior to graduation is deducted is not eligible for practical training after completion of studies. A student may engage in practical training only after receiving the Form I-20 ID Copy endorsed to that effect.

(ii) *Practical training after completion of studies*—(A) *General.* Temporary employment for practical training after completion of studies may be authorized only:

(*1*) After completion of the course of study, if the student intends to engage in only one course of study; or

(*2*) After completion of at least one course of study, if the student intends to engage in more than one course of study. A student may not be granted permission to accept practical training after completion of studies unless the student has been in student status for nine months. After completion of studies, a student may not be granted practical training exceeding twelve months. A student in a language training program may not be granted permission to accept practical training after completion of studies.

(B) *Request to accept a first period of practical training after completion of studies.* A student must submit a request to accept a first period of practical training to the designated school official no more than sixty days prior to completion of the course of study, but less than thirty days after completion of the course of study. The request must consist of:

(*1*) A completed request for practical training on Form I-538;

(*2*) Form I-20 ID Copy; and

(*3*) A certification from the head of the student's academic department or the professor who is the student's academic advisor stating that upon his or her information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence.

(C) *Action upon a request to accept a first period of practical training after completion of studies.* The designated school official must:

(*1*) Certify on Form I-538 that the proposed employment is for the purposes of practical training, that it is related to the student's course of study, and that upon the designated school official's information and belief, employment comparable to the proposed employment is not available to the student in the country of the student's foreign residence;

(*2*) Endorse Form I-538 to show that practical training from (date) to (date) has been authorized, and send the form to the Service's Data Processing Center; and

(*3*) Endorse the Form I-20 ID Copy with the endorsement "First period of practical training authorized from (date) to (date)" and return the form to the student.

A student may engage in practical training only after receiving the Form I-20 ID Copy endorsed to that effect.

(D) *Computation dates for practical training.* For purposes of computation, the "beginning" date of the first period will be the date of completion of studies and the "ending" date will be a date six months after the date of completion of studies. The actual date of commencement of practical training will be determined by the Service at the time of application for a second period of practical training. The actual date of commencement of practical training will be the date the student begins employment, or a date sixty days after the date of completion of studies, whichever is earlier.

(iii) *Second period to continue practical training after completion of studies*—(A) *General.* A second period to continue practical training after completion of studies may not be granted unless the student has actually begun qualified employment during the first authorized period. A student shall submit his or her application for a second period to continue practical training within 30 days after he or she begins qualified employment.

(B) *Request for second period to continue practical training after completion of studies.* A student must submit a request for a second period to continue practical training. The request must be submitted to the Service office having jurisdiction over the actual place of employment. The request must consist of:

(*1*) A completed request for practical training on Form I-538, properly certified by the designated school official;

(*2*) The Form I-20 ID Copy; and

(3) A letter from the applicant's employer stating the applicant's occupation, the exact date employment began, the date employment will terminate, and describing in detail the duties of the applicant in the employment.

The letter from the student's employer must be seen by the designated school official before the designated school official's certification is made. There is no requirement that the student re-establish to the Service that the employment engaged in is not available to the student in the country of the student's foreign residence.

(C) *Action upon request for a second period to continue practical training after completion of studies.* The district director must determine that the student began qualified employment during the first period of practical training, that the stated employment is related to the student's course of study, and that the student can complete practical training within the maximum time authorized. Upon approval of the student's request to continue practical training the district director must:

(1) Endorse Form I-538 with the approval stamp, show that practical training from (date) to (date) has been authorized, and send the Form I-538 to the Service's Data Processing Center; and

(2) Endorse the Form I-20 ID Copy with the endorsement "Second period of practical training authorized from (date) to (date)" and return the form to the student.

A student who has been authorized a first period of practical training may continue to be employed while the application for a second period of practical training is pending until he or she receives a decision from the Service. A student may in no case continue employment beyond twelve months.

(D) *Computation dates for practical training.* The actual "beginning" date of the second period of practical training will be the end date of the first period. The "end" date of the second period will be the date twelve months after the exact date employment began, or fourteen months after the date of completion of studies, whichever is earlier. The student therefore has a maximum of twelve months' work authorized.

3. In § 214.3, paragraphs (g)(1)(i) through (xii) are revised and a new undersigned paragraph is added after paragraph (g)(1)(xii) to read as follows:

§ 214.3 Petitions for approval of schools.

(g)

(1) *

(i) Name.

(ii) Date and place of birth.

(iii) Country of citizenship.

(iv) Address.

(v) Status, i.e., full-time or part-time.

(vi) Date of commencement of studies.

(vii) Degree program and field of study.

(viii) Whether the student has been certified for practical training, and the beginning and end dates of certification.

(ix) Termination date and reason, if known.

(x) The documents referred to in paragraph (k) of this section.

(xi) The number of credits completed each semester.

(xii) A photocopy of the student's I-20 ID Copy.

A Service officer may request any or all of the above data on any individual student or class of students upon notice. This notice will be in writing if requested by the school. The school will have three work days to respond to any request for information concerning an individual student, and ten work days to respond to any request for information concerning a class of students. If the Service requests information on a student who is being held in custody, the school will respond orally on the same day the request for information is made, and the Service will provide a written notification that the request was made after the fact, if the school so desires. The Service will first attempt to gain information concerning a class of students from the Service's record system.

* * * * *

Dated: March 23, 1987.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 87-9069 Filed 4-21-87; 8:45 am]

BILLING CODE 4410-10-M

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8 CFR Part 341

[INS: 1007-87]

Certificates of Citizenship for Adopted Children; Interim Rule With Request for Comment

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule change will implement section 22 of Pub. L. 99-653, the Immigration and Nationality Act Amendments of 1986, regarding issuance of certificates of citizenship for adopted children. The effect of this rule change is to facilitate acquisition of United States citizenship by adopted alien children once they enter the United States.

DATES: Interim final rule effective November 6, 1986. Comments must be received on or before May 22, 1987

ADDRESS: Submit written comments, in duplicate, to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Room 2011, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Thomas E. Cook, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-5014.

SUPPLEMENTARY INFORMATION: On November 14, 1986, President Reagan signed Pub. L. 99-653. Section 22 of Pub. L. 99-653 amended section 341 of the Immigration and Nationality Act, 8 U.S.C. 1452, to permit an adopting United States citizen parent(s) to apply to the Attorney General for a certificate of citizenship in behalf of an adopted child. This provision is an alternative to a petition for naturalization before the court.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is impracticable and unnecessary as the changes have been mandated by the passage of Pub. L. 99-653.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects in 8 CFR Part 341

Citizenship and naturalization, Issuance of certificate, Reporting and recordkeeping requirements.

Accordingly, Chapter I of Title 8, Code of Federal Regulations, is amended as follows:

PART 341—CERTIFICATES OF CITIZENSHIP

1. The authority citation for Part 341 continues to read as follows:

Authority: Secs. 103, 309(c), 332, 333, 337, 341, 344, 66 Stat. 173, 238, 252, 254, 258, 263, 264, as amended; 8 U.S.C. 1103, 1409(c), 1443, 1444, 1448, 1452, 1455.

2. Section 341.7 is revised to read as follows:

§ 341.7 Issuance of certificate.

If the application is granted, a certificate of citizenship shall be issued and, unless the claimant is unable by

reason of mental incapacity or young age to understand the meaning thereof, he/she shall take and subscribe to the oath of renunciation and allegiance, prescribed by Part 337 of this chapter, before an officer of the Service within the United States. Thereafter, delivery of the certificate shall be made in the United States to the claimant or the acting parent or guardian, either personally or by certified mail. The child in whose behalf an application for issuance of a certificate of citizenship is made pursuant to section 341(b) of the Act must meet the requirements of section 341(b)(2) at the time the application is approved. The child becomes a citizen of the United States upon approval of the application. The certificate of citizenship issued pursuant to such approval will reflect the approval date of the application.

Dated: April 8, 1987.

Richard E. Norton,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 87-9068 Filed 4-21-87; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 166

[Docket No. 87-052]

Swine Health Protection Provisions

AGENCY: Animal Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the regulations to remove Oklahoma from the list of States that have primary enforcement responsibility under the Swine Health Protection Act (the Act), in order to help ensure that requirements under the Act for the feeding of garbage to swine are enforced in Oklahoma. As a result of this action, the provisions of the Act and the Federal regulations concerning swine health protection are now being enforced in Oklahoma by the Secretary of Agriculture of the United States.

EFFECTIVE DATE: April 22, 1987 We will consider your comments if we receive them on or before June 22, 1987

ADDRESS: Send written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 87-052. Comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. G.H. Frye, Chief Staff Veterinarian, Program Planning Staff, Veterinary Services, Room 839, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8711.

SUPPLEMENTARY INFORMATION:

Background

The "Swine Health Protection Provisions" regulations (contained in 9 CFR Part 166 and referred to below as the Federal regulations) were established under the Swine Health Protection Act (contained in 7 U.S.C. 3801 *et seq.* and referred to below as the Act). To prevent the introduction into, and dissemination within, the United States of certain diseases of swine, the authorities cited above regulate both the treatment of garbage that is to be fed to swine and the feeding of that garbage. Except for certain emergency actions, the Act provides that its provisions and the Federal regulations are to be enforced by the Secretary of Agriculture of the United States (Secretary) only in States that do not have primary enforcement responsibility under the Act.

Primary Enforcement Responsibility in Oklahoma

The Act provides that a State has primary enforcement responsibility for violations of laws and regulations concerning treatment of garbage to be fed to swine, and the feeding of that garbage, whenever the Secretary determines the following: (1) That the State has adopted adequate laws and regulations concerning both the treatment of garbage to be fed to swine and the feeding of that garbage that meet both the minimum standards of the Act and any regulations promulgated under the Act; (2) that the State has adopted and is implementing adequate procedures for the effective enforcement of these laws and regulations; and (3) that the State keeps records and makes reports showing compliance with paragraphs (1) and (2) as the Secretary may require.

Before the publication of this interim rule, Oklahoma was listed in § 166.15(c) of the Federal regulations as a State having primary enforcement responsibility under the Act. Because of budgetary considerations, however, Oklahoma can no longer meet our requirements for primary enforcement responsibility, and animal health officials in that State have requested that we assume full responsibility for enforcement of the Swine Health Protection provisions. Therefore, according to the requirements of section 10(b) of the Act, we gave Oklahoma 90-day notification of our intention to assume full enforcement responsibility, and are now removing that State from the list of States that have primary enforcement responsibility under the Act. Therefore, the provisions of the Act and the Federal regulations are now being enforced by the Secretary in Oklahoma.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this interim rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increse in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The amendments made by this document will not cause significant changes in requirements for affected persons, and will instead change only which government entity will enforce certain regulations that guard against certain diseases of swine.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This interim rule contains no information or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Exective Order 12372, which requires intergovernmental consultation with State and local

officials. (See 7 CFR Part 3015, Subpart V).

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted to help ensure that certain requirements for the feeding of garbage to swine under the Act are enforced in Oklahoma.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find that prior notice and other public procedures with respect to this interim rule are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. We require that comments concerning this interim rule be submitted within 60 days of its publication. We will discuss any comments received and any amendments required in a final rule that will be published in the **Federal Register**.

List of Subjects in 9 CFR Part 166

African swine fever, Animal diseases, Foot-and-mouth disease, Hog cholera, Hogs, Garbage, Swine vesicular disease, Vesicular exanthema of swine.

PART 166—SWINE HEALTH PROTECTION

Accordingly, 9 CFR Part 166 is amended as follows:

1. The authority citation for 9 CFR Part 166 continues to read as follows:

Authority: 7 U.S.C. 3802, 3803, 3804, 3808, 3809, 3811; 7 CFR 2.17, 2.51 and 371.2(d).

2. Section 166.15(c) is revised to read as follows:

§ 166.15 State status.

* *

(c) The following States have primary enforcement responsibility under the Act: Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin.

* *

Done at Washington, DC, this 16th day of April, 1987

J.K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87-9038 Filed 4-21-87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-25-AD; Amdt. 39-5610]

Airworthiness Directives: Honeywell Inc., Sperry Commercial Flight Systems Division (Sperry Corp., Aerospace and Marine Group) Electronics Flight Systems Symbol Generators

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of airplanes equipped with certain Sperry Electronics Flight Instrument Systems (EFIS) Symbol Generators, by individual letters. This AD imposes a restriction on flight operations in instrument meteorological conditions (IMC) until modification or replacement of certain EFIS Symbol Generators is accomplished. This AD is prompted by reports of failure of the Attitude and Heading Reference Systems (AHRS) due to electronic contamination originating in the EFIS symbol generator boxes. This condition, if not corrected can result in frozen unflagged attitude and heading displays on both instrument panels.

DATES: Effective May 11, 1987 This AD was effective earlier to all recipients of Priority Letter AD 87-06-02, dated March 13, 1987

ADDRESSES: The applicable service information may be obtained from Honeywell Inc., Sperry Commercial Flight Systems Division (formerly Sperry Corporation, Aerospace and Marine Group), P.O. Box 29000, Phoenix, Arizona 85038-9000. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Thompson, Western Aircraft Certification Office, Supervisor, ANM-173W, FAA, Northwest Mountain Region, 15000 Aviation Boulevard, Hawthorne, California; telephone (213) 297-1375.

SUPPLEMENTARY INFORMATION: On March 13, 1987 the FAA issued Priority Letter AD 87-06-02, applicable to all airplanes equipped with Sperry Attitude and Heading Reference (AHRS) Model AH-600 P/N 7003360-9xx, installed as part of Sperry SZP-6000 or SPZ-8000 Digital Automatic Flight Control Systems. This combination is known to be installed in, but not limited to, de Havilland Model DHC-8, British Aerospace Model BAe 125-800, Cessna Model 650, and Aerospatiale Model ATR-42 series airplanes. The Priority Letter AD imposes a restriction against flight operations in instrument meteorological conditions (IMC) until replacement or modification of all faulty EFIS Symbol Generators has been accomplished.

This AD is necessary because of a report of dual, simultaneous failure of the Sperry Corporation AH-600 Attitude and Heading Reference Systems (AHRS) primary attitude and heading displays. The attitude and heading presentations on both instrument panels froze (no response to airplane changes) and remained unflagged. Correct airplane attitude and heading information is essential for safe operation of the airplane under adverse conditions. The attitude and heading display problems have been determined to be caused by electronic contamination originating in certain Sperry Electronics Flight Instrument System (EFIS) Symbol Generator boxes.

Since a situation existed, and still exists, that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a

final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Honeywell Inc., Sperry Commercial Flight Systems Division (Sperry Corporation, Aerospace and Marine Group).—

Applicable to the following models of Sperry Electronics Flight Instrument Systems (EFIS) Symbol Generators, which have not been modified to Mod Level S or subsequent:

Model	Sperry part numbers
SG-810	7004544-901
SG-811	7004544-811
SG-610	7004544-902

Note.—These systems are known to be installed in, but not limited to, de Havilland Model DHC-8, British Aerospace Model BAe 125-800, Cessna Model 650, and Aerospatiale Model ATR-42 series airplanes.

Compliance is required as indicated, unless previously accomplished.

To reduce the possibility of AHRS attitude and heading computations being contaminated, which can result in frozen attitude and heading displays on both instrument panels, accomplish the following:

A. Prior to further flight, install a placard adjacent to the first pilot's electronic attitude direction indicator (EADI), in full view of the pilot, stating "FLIGHT INTO KNOWN IMC PROHIBITED."

B. Modification of the Sperry EFIS Symbol Generator models listed above to Mod Level S or subsequent, or installation of the following Sperry EFIS Symbol Generator models, constitutes terminating action for the operational and placard requirements of paragraph A., above:

Model	Sperry part numbers	Mod level (or subsequent)
SG-811	7004544-211	V
SG-811	7004544-311	AD
SG-811	7004544-411	U
SG-611	7004544-611	S

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to Honeywell Inc., Sperry Commercial Flight Systems Division (formerly Sperry Corporation, Aerospace and Marine Group), P.O. Box 29000, Phoenix, Arizona 8538-9000. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

Issued in Seattle, Washington, on April 15, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-8943 Filed 4-21-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-36-AD; Amdt. 39-5611]

Airworthiness Directives: McDonnell Douglas Model DC-9-81, -82, and -83 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-9-81, -82, and -83 airplanes, equipped with certain Goodyear Aerospace Corporation main landing gear wheels, which requires inspection of the main landing gear wheels to assure that cracked wheels are removed from service. This amendment is prompted by numerous reports of cracks found in wheels. This condition, if not corrected, could result in wheel failure and potential damage to adjacent tires, engines, or the airplane.

EFFECTIVE DATE: May 11, 1987

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Stacho, Aerospace Engineer, Systems and Equipment Branch, ANM-131L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6323.

SUPPLEMENTARY INFORMATION: Ten instances of cracked wheels have been reported by an operator of DC-9-80 series airplanes equipped with Goodyear Aerospace Corporation main landing gear wheels, Part Number 5007897 The cracked wheels were discovered on airplanes having logged 550 to 1350 landings. Investigation revealed that the cracking initiates at the 0.028-inch corner radius on the inside of the outboard wheel half near the tie bolts, and propagates outward. Analyses by the wheel and airframe manufacturers have determined that the cracks are due to fatigue. This condition, if not corrected, could result in wheel failure and potential damage to adjacent tires, engines, or the airplane.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin A32-219, dated February 17 1987 which describes ultrasonic, eddy current, and fluorescent penetrant inspections of the Goodyear main landing gear wheel, Part Number 5007897 for cracks. In addition, the wheel manufacturer has developed a modification to the wheel which will prevent premature cracking, and reidentifies the wheel as Goodyear wheel assembly Part Number 5007897-1.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires repetitive inspections of the wheel, and removal of cracked wheels, if found, in accordance with the service bulletin previously mentioned. Replacement with Goodyear wheel assembly, Part Number 5007897-1, constitutes terminating action for the inspection requirements of this AD.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is

impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-81, -82, and -83 airplanes, certificated in any category, equipped with Goodyear main landing gear wheel assemblies, Part Number 5007897

Compliance required as indicated, unless previously accomplished.

To minimize the potential for a wheel failure, accomplish the following:

A. Within the next 150 landings after the effective date of this AD, unless the wheel was inspected within the last 150 landings, inspect the wheel assembly for cracks in accordance with McDonnell Douglas Alert Service Bulletin A32-219, dated February 17, 1987 or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. If no cracks are found, repeat the inspections specified in paragraph A., above, at each tire change or every 300 landings, whichever occurs first.

C. If crack(s) are found, replace the wheel before further flight.

D. Replacement with Goodyear wheel assembly Part Number 5007897-1 constitutes terminating action for the inspections required by paragraphs A. and B., above.

E. Alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective May 11, 1987

Issued in Seattle, Washington, on April 15, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-8942 Filed 4-21-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-ASW-22; Amdt. 39-5517]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Model AS 350 and AS 355 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Aerospatiale Model AS 350 and AS 355 helicopters by individual letters. The AD requires repetitive inspection, repair, or replacement, as necessary, of main rotor head components, main gearbox suspension bars, and ground resonance prevention system components. This AD is needed to prevent failure or unacceptable deterioration of main rotor head, main gearbox suspension, or ground resonance prevention components which could result in failure of a main rotor head or main gearbox suspension component and consequent loss of control of the helicopter.

EFFECTIVE DATE: April 22, 1987 as to all persons except those persons to whom it was made immediately effective by priority letter AD 86-15-10 issued July 30, 1986, which contained this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 22, 1987

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

A copy of each of the service bulletins is contained in the Rules Docket at the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: John Varoli, Manager, Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, telephone No. 513.38.30 or R. T. Weaver, Rotorcraft Standards Staff, ASW-110, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-5122.

SUPPLEMENTARY INFORMATION: On July 30, 1986, priority letter AD 86-15-10 was issued and made effective immediately as to all known U.S. owners and operators of certain Aerospatiale Model AS 350 and AS 355 series helicopters. The AD was prompted by three reports of main rotor head component damage and main gearbox suspension bar damage in AS 355 helicopters which exhibited severe vibrations on approach or landing. Because of similarities in design, the Model AS 350 was included in the AD.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters issued July 30, 1986, to all known U.S. owners and operators of certain Aerospatiale Model AS 350 and AS 355 helicopters. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons. The AD, as published, also adds inspection and rework requirements for landing gear components and adds a repetitive inspection requirement.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct

an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Société Nationale Industrielle Aerospatiale (SNIAS): Applies to Aerospatiale Model AS 350 and AS 355 series helicopters *certificated in any category.*

Compliance is required as indicated unless already accomplished.

To prevent the failure of main rotor head star arms and main gearbox suspension bars, accomplish the following:

(a) Within the next 10 hours' time in service after the effective date of this AD:

(1) For Model AS 350 series helicopters, inspect the main rotor head components, the main gearbox suspension bars (struts), and the landing gear ground resonance prevention components (aft spring blades and hydraulic shock absorbers) in accordance with Service Bulletin (SB) 01.17a, paragraph CC.3.

(2) For Model AS 355 series helicopters, inspect the main rotor head components, the main gearbox suspension bars (struts), and the landing gear ground resonance prevention components (aft spring blades and hydraulic shock absorbers) in accordance with SB 01.14a, paragraph CC.3.

(b) Rework or replace damaged components in accordance with SB 01.17a or 01.14a (as applicable).

(c) Repeat the inspections and rework of paragraphs (a) and (b) in intervals not to exceed 300 hours' time in service.

(d) In the event the helicopter is subjected to a hard landing or to high surface winds, when parked without effective tiedown straps installed, repeat the inspections of paragraph (a) for the main rotor head star arms and the main gearbox suspension bars before further flight.

(e) In the event of a landing which exhibits abnormal self-sustained dynamic vibrations (ground resonance type vibrations) repeat all the inspections of paragraph (a).

(f) An alternate method of compliance with this AD, which provides an equivalent level of safety, may be used when approved by the Manager, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by the Manager, Aircraft Certification Office, AEU-100, FAA Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

(g) In accordance with §§ 21.197 and 21.199, flight is permitted to a base where the inspections required by this AD may be accomplished.

The manufacturer's specifications and procedures shall be done in accordance with Aerospatiale SB 01.17a or 01.14a (as applicable).

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a)(1). Copies may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support. These documents may be examined in the Rules Docket at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Room 156, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106 or at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC.

This amendment becomes effective April 22, 1987 as to all persons except those persons to whom it was made immediately effective by priority letter AD 86-15-10, issued July 30, 1986, which contained this amendment.

Issued in Fort Worth, Texas, on March 3, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-8941 Filed 4-21-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM85-6-001; Order No. 464-A]

Electric Utilities; Waiver of the Water Quality Certification Requirements of the Clean Water Act

Issued: April 13, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is denying rehearing of Order No. 464, issued on February 11, 1987 In Order No. 464, the Commission adopted rules to define when the certification requirements of section 401(a)(1) of the Clean Water Act have been waived by failure of a state or other authorized certifying agency to act on a request for certification filed by an applicant for a Commission hydroelectric license. The rule allows a certifying agency one year after the certifying agency's receipt of a request for section 401 certification to grant or deny the license applicant's certification request.

EFFECTIVE DATE: April 13, 1987

FOR FURTHER INFORMATION CONTACT: Robert Keegan, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, (202) 357-8033.

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

I. Background

The Federal Energy Regulatory Commission (Commission) is denying rehearing of Order No. 464, issued on February 11, 1987 [1] In Order No. 464, the Commission adopted rules to define when the certification requirements of section 401(a)(1) of the Clean Water Act (CWA) have been waived by failure of a state or other authorized certifying agency to act on a request for certification filed by an applicant for a Commission hydroelectric license. The rule allows a certifying agency one year after the certifying agency's receipt of a request for section 401 certification to grant or deny the license applicant's certification request.

Only one applicant sought rehearing of Order No. 464. On March 13, 1987 Pacific Gas and Electric Company (PGandE) filed a request for rehearing of Order No. 464.

II. Discussion

PGandE asks the Commission to clarify that an accepted license application is deemed to contain all the information necessary for a decision by a certifying agency on a request for section 401 certification. PGandE cites to the Commission's notice of proposed rulemaking (NOPR) in this proceeding [2]

[1] 52 FR 5446 (Feb. 23, 1987), III FERC Stats. and Regs. ¶ 30,730 (1987).

[2] 50 FR 32,229 (Aug. 9, 1985), FERC Proposed Regulations ¶ 32,416 at 33,196.

for the proposition that the Commission has recognized that public notice of a license application constitutes evidence that information sufficient to rule on a certification request has been received. PGandE argues that, without the clarification it seeks, certifying agencies could deny a certification request because they had not obtained from applicants state environmental or other documentation requirements, even if these are not required due to Federal preemption principles.

The Commission is denying PGandE's rehearing request. Order No. 464 addressed the time period within which certifying agencies may grant or deny section 401 certification requests; it did not purport to define the procedural and substantive requirements that a certifying agency may impose on a certification applicant. Rather both the NOPR to which PGandE cites and Order No. 464 pointed out that the Commission's pre-filing consultation requirements for hydroelectric license applicants can be of significant assistance in providing certifying agencies with adequate information to analyze certification requests. It was not, however, the Commission's intention to substitute its judgment for that of the certifying agency with respect to the information deemed necessary for an informed decision on a certification request.[3]

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-9059 Filed 4-21-87; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of final rulemaking.

SUMMARY: This notice revises the timeframes for protection of proprietary geological data and analyzed geological information generated on a lease in the Outer Continental Shelf (OCS). This revision will provide additional assurance that the party that incurred the cost to produce the geological data and information will have a reasonable opportunity for exclusive use of them during a subsequent lease sale. The rule changes would apply to leases that are within the primary term specified in the lease and will provide added protection until a lease is offered within 50 miles of the well.

DATES: This rule becomes effective May 22, 1987

FOR FURTHER INFORMATION CONTACT: John V Mirabella, Telephone: (703) 648-7816 or (FTS) 959-7816.

SUPPLEMENTARY INFORMATION: Current regulations at 30 CFR 250.3 provide 2-year terms of protection for geological data and analyzed geological information collected on a lease. A lessee generates geological data and information from exploration wells hoping to have exclusive use of that data and information during a lease sale involving any adjacent or nearby unleased blocks. In portions of the OCS where lease sales occur on a biennial basis, this has provided the lessee with the exclusive use of the geological data and information during a lease sale subsequent to the submission of that data and information. However, in portions of the OCS where lease sales occur less frequently, the lessee has exclusive use of the geological data and information during a lease sale only if the data and information are submitted within 2 years of a lease sale. In some cases, drilling activities are intentionally delayed until such time that the data and information will be submitted within 2 years of an anticipated lease sale.

Current Minerals Management Service (MMS) rules and policies with regard to suspensions of production and with regard to lease extensions include provisions which ensure that lease exploration occurs during the primary term. The timing of when the drilling operations will occur during the primary term is a decision which is left to the lessee. However, MMS does not want its rules to create a reason for a lessee to delay drilling—as can happen with existing rules concerning protection of geological data and information collected on a lease.

The situation described shows that, in certain cases, current rules governing protection of geological data and information result in an incentive for lessees to delay drilling until late in the primary term. The amendment modifies the term of protection of geological data and information to create a situation where that data and information generated early in the primary term would have an increased likelihood of being protected during a subsequent lease sale. This is accomplished by protecting geological data and analyzed geological information for a minimum of 2 years and for additional time when a lease sale has not occurred such that a lease is offered within 50 miles of the well.

On June 30, 1983, MMS issued a proposed rule addressing the term of protection of geological and geophysical data and information collected either on a lease or under a permit.

Final action on the June 30, 1983, notice is being issued separately for rules governing operations on a lease and for rules governing operations under a permit. The notice of final rulemaking now being issued addresses only the term of protection of proprietary data and information collected on a lease.

In response to the June 30, 1983, notice of proposed rulemaking, timely comments were received from 20 interested parties—16 oil and gas production/exploration companies, 1 trade/technical association, 2 States, and 1 support/service contractor.

The majority of the commenters (15 out of 20) favored the concept of increased term of protection for proprietary data and information.

The primary reason given for favoring the increased protection was that the company developing costly data and information should be entitled to exclusive use of the data and information for at least one lease sale subsequent to the collection of the data or information, and this was not always the case under current rules. A lesser number of commenters (5 out of 20) opposed the proposed increased protection. The primary reason given for opposing the change was that it restricted the free flow of geological and geophysical data and information which are needed by the public for the development of offshore oil production and by the States to determine the impact of such development.

In developing this rule change, MMS has considered both the needs of the public and the States for these data and information and the need to provide certain minimum protection for the party incurring the cost of obtaining the data. In the case of data and information obtained under a lease, the primary

[3] The nature and scope of a certifying agency's information-gathering authority and decisional standards have been the subject of court review. *See* Power Authority of the State of New York v. Williams, 457 2nd 726 (C.A.N.Y. 1983); Arnold Irrigation District v. Dept. of Environmental Quality, 717 P. 2d 1274 (Or App. 1986). PGandE expresses concern that certifying agencies could require compliance with state environmental or other documentation requirements even if such requirements are obviated by federal preemption principles. The court in *Arnold Irrigation District* noted that the issue is not Federal preemption of state regulation but rather what criteria Congress intended the states to consider in deciding whether to issue certification in compliance with the CWA. 717 P.2nd at 1278 n.4.

factor in drilling decisions should be proper development of the lease. However, MMS recognizes that geological data and information from an existing lease are important in evaluating the potential of nearby tracts. In offering protection for the longer of 2 years from the date of submission or to the end of the primary term specified in the lease, MMS has established a system which will not penalize a lessee who drills early in the primary term in cases where the next lease sale does not occur until late in the primary term.

This final rule amends the rules for protection of geological data and analyzed geological information and not for geophysical data and information and interpreted geological information. Postlease geophysical data and information and interpreted geological information generated on a lease are currently protected for 10 years, and the rules governing their release are not being modified.

Many commenters to the June 30, 1983, notice raised specific points concerning the proposed change in the regulation. Each of these comments was considered, and those pertaining to operations under a lease, in total or in part, are discussed below.

Several commenters questioned the use of a planning area as the criteria used to determine when a lease issuance would allow release of geophysical information. Some commenters felt that this was too broad an area for the information to be relevant while other commenters felt that a planning area was not well enough defined. One commenter questioned what would be done for a leasing moratorium in a portion of the planning area. In place of a planning area, commenters suggested criteria of various distances from 50 miles to as small as 10 miles. These comments were considered in regard to prelease operations. However, since rules governing operations under a lease are being changed only with regard to geological data and information, these detailed comments relating to geophysical data and information are not applicable to this final rule.

Two commenters suggested that, to avoid confusion when a 50-mile area cuts through a lease, MMS clearly state that if any portion of an issued lease is within the specified distance, then the data will be released. The MMS agrees with this comment, and the rule has been changed accordingly.

Several commenters expressed confusion over the wording of the proposed rule. The revision to the structure of the rule should clear up any confusion as to the meaning of the rule.

One commenter felt that "data and information" in sections 26(a) and (c) of the Outer Continental Shelf Lands Act (OCSLA) are not the same as "data and information" in section 18(h) of the OCSLA. The basic treatment of data and information is an established part of this rule and has not been changed. This amendment only covers the term of protection. The basic question of what data should be protected is outside the scope of this rulemaking.

There were comments both in favor of and against the concept of applying the amended rule to all data in the possession of MMS and not just data submitted after the amended rule becomes effective. The MMS feels it is necessary to apply the amended rule to all data whether it was submitted before or after the amended rule becomes effective. Many companies generated data and information with the understanding that a lease sale would occur prior to the end of the minimum term of protection but, subsequently, anticipated lease sales were delayed. The MMS feels that to be fair to these companies, it is necessary to apply the amended rule to all data in the possession of MMS.

One commenter suggested that 60 days after issuance of a lease be changed to 6 months after issuance of a lease to allow for challenges to a lease. Another commenter suggested that the criterion should be 60 days after the lease is no longer subject to challenge. The MMS considers the offering of a lease to be an opportunity for a lessee to use data and information. The data and information should then be released whether or not a lease was issued.

One commenter suggested that further protection of data is needed and suggested that data and information not be released until all immediately adjacent unleased acreage has been offered for lease and until it is reoffered in cases where a lease bid has been rejected. The MMS considers that, for operations on a lease, providing protection until a lease within 50 miles is offered will provide a reasonable length of time for the lessee to have exclusive use of geological data and analyzed geological information. The MMS does not feel that it is appropriate to assure that all adjacent tracts are leased.

Several commenters questioned particular wording used in the regulation. The MMS has modified the wording where appropriate to improve clarity.

On March 18, 1986, MMS published a notice of proposed rulemaking (51 FR 9316) to consolidate rules governing offshore oil and gas operations. This rule change to modify terms of protection to geological data and information generated under a lease amends existing regulations. However, the change now being made will also be considered for inclusion at the appropriate location for the rules which were proposed on March 18, 1986.

The notice of proposed rulemaking of March 18, 1986, proposed comprehensive changes to the regulations governing oil and gas operations in the OCS. Several comments were received concerning the rules proposed on March 18, 1986, providing MMS with current public views on the subject. Accordingly, MMS has used the 1983 comments in combination with comments received in response to the March 1986 notice of proposed rulemaking to develop this final rule.

As is the case under current rules, data and information will be released when a lease expires. The following are examples of how the rule will trigger the release of geological data and information for active leases.

For a lease which is within the primary term specified in the lease, all geological data and analyzed geological information will be protected for an initial period of 2 years. If, during those 2 years, a block has been offered, such that any portion of the block is within 50 miles of the well, then the data and information will be released at the end of the 2 years. If not, then the data and information will be protected until 60 days after a block is offered within 50 miles of the well from which the data and information were generated.

At the end of the primary term specified in the lease, all geological data and analyzed geological information that has been protected for 2 years or more will be released. After that time, all geological data and analyzed geologic information will be released 2 years after they were submitted, regardless of whether the data and information were submitted before or after the primary term specified in the lease.

In each case, the release of the data and information is controlled by the primary term specified in the lease. Thus, the protection period will not increase as a result of lease extensions due to suspension of production or suspensions of operations.

The Department of the Interior (DOI) has determined that this rule is not expected to cause an increase in costs or prices to consumers, other industries, or governmental entities. Furthermore, this rule does not constitute a major rule under Executuve Order 12291, and

therefore, a regulatory impact analysis is not required.

The DOI has also determined that this document will not have a significant economic effect on a substantial number of small entities because, in general, the entities that engage in activities offshore are not considered small due to the technical complexities and financial resources necessary to conduct such activities.

This rule does not contain information collection requiring approval under 44 U.S.C. 3501 *et seq.*

Author: This document was prepared by John V Mirabella, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Oil and gas exploration, Penalties, Pipelines, Public lands-mineral resources, Reporting and recordkeeping requirements.

Dated: March 12, 1987.

William D. Bettenberg,

Director, Minerals Management Service.

PART 250—[AMENDED]

For the reasons set forth above, 30 CFR Part 250.3 is amended as shown below.

1. The authority citation for Part 250 continues to read as follows:

Authority: Outer Continental Shelf Lands Act, 43 U.S.C. 1331 *et seq.*, as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4332 *et seq.* (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*

2. Section 250.3 is amended to revise paragraph (b) as follows:

§ 250.3 Data and information to be made available to the public.

* * * * *

(b) Except as provided in paragraph (c) of this section or in § 252.7 of this chapter, geological data and analyzed geological information, submitted pursuant to the requirements of this part, shall not be available for public inspection without the consent of the lessee except under one of the following conditions based on the status of the lease at the time of release of the data or information:

(1) For leases no longer in effect, the data and information will be released.

(2) For a lease in effect, and within the primary term specified in the lease, the data and information may be released 2 years after submission of the data or information or 60 days after a lease sale such that any portion of an offered block is within 50 miles of the well, whichever is later.

(3) For leases in effect and beyond the primary term specified in the lease, and data and information will be released 2 years after submission.

(4) For all leases, the data and information may be released if the Director determines that release of such data and information is necessary for the proper development of the field or area.

* * * * *

[FR Doc. 87-8994 Filed 4-21-87; 8:45 am]
BILLING CODE 4310-MR-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS LEYTE GULF

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS LEYTE GULF (CG-55) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully. with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 9, 1987

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS LEYTE GULF (CG-55) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a Navy ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS LEYTE GULF	CG-55						X	X	38

Dated: April 9, 1987.
Approved.
John Lehman,
Secretary of the Navy.
[FR Doc. 87-9003 Filed 4-21-87; 8:45 am]
BILLING CODE 3810-AE-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Foreign Medical Schools

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Administrator of Veterans Affairs has the authority by law to deny or discontinue educational assistance to any veteran enrolled in an institution of higher learning not located in a State if the Administrator determines that the enrollment is not in the best interest of the veteran or the Federal Government. The Administrator is exercising this authority by providing additional criteria a foreign medical school must meet before a veteran's enrollment in the school's courses may be approved. This should ensure that the medical education veterans are receiving abroad is comparable to that which other veterans are receiving in the United States.

EFFECTIVE DATE: March 31, 1987

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-2092.

SUPPLEMENTARY INFORMATION: On pages 32667 and 32668 of the **Federal Register** of September 15, 1986, there was published a notice of intent to amend Part 21 concerning the approval of enrollments of veterans and eligible persons in foreign medical schools. The notice stated that except for some modifications designed to make certain criteria consistent with Title 38, United States Code, the proposed regulations agreed with the regulations used by the Department of Education to determine the eligibility of foreign medical schools under the guaranteed student loan program (34 CFR 601.1 through 601.7). Interested persons were given 30 days to submit comments, suggestions or objections.

The VA received one letter. The writer stated that he agreed with the objective of bringing VA regulations into agreement with those used in the guaranteed student loan program to determine the eligibility of foreign medical schools.

During the comment period the Higher Education Amendments of 1986, Pub. L. 99-498, were enacted. Section 435 of that Act requires the Secretary of Education to issue further regulations governing the approval of foreign medical schools under the guaranteed student loan program. The law contains specific criteria which must appear in the new regulations. These included a minimum percentage of students who must pass the examinations administered by the Educational Commission for Foreign Medical Graduates when less than 60 percent of the students enrolled in the school are nationals of the country in which the school is located.

It appears that it will be some time before the Department of Education will issue these regulations. Waiting for the issuance of those regulations would considerably delay the implementation of those regulations, which the VA proposed on September 15, 1986. Rather than delay implementation of those regulations the VA is making them final. Once the Department of Education adopts regulations which include the criteria contained in the Higher Education Amendments of 1986, the VA will further amend its regulations to make them agree with those of the Department of Education.

This amended final regulation, as originally proposed, contained several references to the Director of the VA's Education Service. Due to an internal reorganization that position no longers exists. The final regulations instead contain references to the Director of the VA's Vocational Rehabilitation and Education Service.

The VA has determined that this amended final regulation does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulation will not have a $100 million annual effect on the economy, and will not cause a major increase in costs of prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprised to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans Affairs has certified that this amended final regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended final regulation, therefore, it exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the VA does not believe that the Congress intended RFA to apply to foreign small entities. Even if this were not the case, the number of small entities affected would not be substantial. There are approximately 125 foreign medical schools with courses approved for VA training. Although there are insufficient data available to enable the VA to state the exact number of these which are small entities, the VA estimates that the percentage is small. A small percentage of 125 is not substantial number.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111 and 64.117

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 31, 1987.
Thomas K. Turnage,
Administrator.

PART 21—[AMENDED]

38 CFR Part 21, *Vocational Rehabilitation and Education,* is amended by revising § 21.4260 to read as follows:

§ 21.4260 Courses in foreign countries.

(a) *Approval of postsecondary courses in foreign countries.* (1) In order to be approved a postsecondary course offered in a foreign country must meet all the provisions of this paragraph. A course offered by a foreign medical school (other than one located in Canada) must also meet all of the provisions of paragraph (b) of this section. (38 U.S.C. 1676)

(i) The educational institution offering the course is an institution of higher learning, and

(ii) The course leads to a standard college degree or its equivalent.

(2) For the purpose of this paragraph, a degree is the equivalent of a standard college degree when the program leading to the degree has the same entrance requirements as one leading to a degree granted by a public degree-granting institution of higher learning in that country. (38 U.S.C. 1676; Pub. L. 96-466)

(b) *Approval of courses offered by a foreign medical school.* In addition to meeting all the criteria stated in paragraph (a) of this section, a course offered by a foreign medical school (other than one located in Canada) must also meet all of the following criteria:

(1) The school satisfies the criteria for listing as a medical school in the World Directory of Medical Schools published by the World Health Organization (WHO).

(2) The evaluating bodies (such as medical associations or educational agencies) whose views are considered relevant by the Director, Vocational Rehabilitation and Education Service and which are located in the same country as the school—

(i) Recognize the school as a medical school, and

(ii) Approve the school.

(3) The school provides, and in the normal course requires its students to complete, a program of clinical and classroom instruction at least 32 months long. This program must be—

(i) Supervised closely by members of the school's faculty, and

(ii) Provided either.

(A) Outside the United States in facilities adequately equipped and staffed to afford students comprehensive clinical and classroom medical instruction, or

(B) Inside the United States, through a training program for foreign medical students which has been approved by all the medical licensing boards and evaluating bodies whose views are considered relevant by the Director, Vocational Rehabilitation and Education Service.

(4) The school has graduated classes during each of the two 12-month periods immediately preceding the date on which the VA receives the school's application for approval of its courses.

(5) The Director, Vocational Rehabilitation and Education Service shall withdraw approval of any course when the course or the school offering it fails to meet any of the approval criteria in this section or in Chapter 36, Title 38, United States Code.

(6) In making the decisions required by this paragraph, the Director, Vocational Rehabilitation and Education Service may consult with the Secretary of Education. The Director may review any information about a foreign medical school which the Secretary may make available. (38 U.S.C. 1676)

(c) *Approval of enrollments in foreign courses.* (1) Except as provided in paragraph (c)(2) of this section, the Veterans Administration will approve the enrollment of a veteran of eligible person in a course offered by an educational institution not located in a State when—

(i) The veteran or eligible person meets the eligibility and entitlement requirements of §§ 21.1040 through 21.1045, §§ 21.3040 through 21.3046 or §§ 21.5040 and 21.5041, as appropriate;

(ii) The veteran's or eligible person's program of education meets the requirements of § 21.4230 or § 21.5230 as appropriate; and

(iii) The course meets the requirements of this section and all other applicable VA regulations.

(2) The VA may deny or discontinue the payment of educational assistance allowance to a veteran or eligible person pursuing a course in an institution of higher learning not located in a State when the VA finds that the veteran's or eligible person's enrollment is not in the best interest of the veteran, eligible person or the Federal Government. (38 U.S.C. 1676)

[FR Doc. 87-8953 Filed 4-21-87; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300157A; FRL-3189-2]

Ammonium Nitrate and Urea; Pesticide Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts ammonium nitrate and urea from the requirement of a tolerance when used as inert ingredients (adjuvant/intensifier for herbicides) in pesticide formulations applied to growing crops only. This regulation was requested by BASF Corp.

EFFECTIVE DATE: Effective on April 22, 1987

ADDRESS: Written objections may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Rosalind Gross, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: FPA issued a proposed rule, published in the Federal Register of January 7, 1987 (52 FR 563), which announced that BASF Corp., Parsippany, NJ 07054, had requested that 40 CFR 180.1001(d) be amended by establishing exemptions from the requirement of a tolerance for ammonium nitrate and urea when used as inert ingredients (adjuvant/intensifier for herbicides) in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids: carriers such as clay and diatomaceous earth; thickeners such as carageenan and modified cellulose; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment. EPA has initiated new review procedures for tolerance exemptions for inert ingredients. Under these procedures the Agency conducts a review of the data base supporting any prior clearances, the data available in the scientific literature, and any other relevant data. Ammonium nitrate and urea were subjected to these new review procedures. Based on these new review procedures and the indirect food use clearance for ammonium nitrate under 21 CFR 176.180 and the direct food use clearance for urea under 21 CFR 184.1923, the Agency has determined that no additional test data will be required to support this regulation.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticides are considered useful for the purposes for which the exemptions are sought. It is concluded that the exemptions from the requirement of a tolerance will protect the public health. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 9, 1987

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(d) is amended by adding and alphabetically inserting the inert ingredients as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * *

Inert ingredients	Limits	Uses
Ammonium nitrate (CAS Reg. No. 6484-52-2).		Adjuvant/ intensifier for herbicides.
Urea (CAS Reg. No. 57-13-6).		Adjuvant/ intensifier for herbicides.

[FR Doc. 87-8674 Filed 4-21-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[General Docket No. 79-144; FCC 87-63]

Environmental Evaluation of Radiofrequency Radiation From FCC-Regulated Services

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule.

SUMMARY: This item amends Part 1 of the Commission's Rules to categorically exclude certain FCC-regulated services from routine environmental evaluation for potential human exposure from radiofrequency (RF) radiation. Other designated services must make such an evaluation. This item is a consequence of the Commission's legal responsibilities under the National Environmental Policy Act of 1969.

EFFECTIVE DATE: May 26, 1987

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Dr. Robert F Cleveland, Office of Engineering and Technology, FCC, telephone (202) 653-8169.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order*, General Docket 79-144, FCC 87-63, Adopted February 12, 1987 and Released April 9, 1987

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037

Summary of Second Report and Order

1. This *Second Report and Order* amends the FCC's Rules to further define Commission policy regarding evaluation of potentially hazardous human exposure to radiofrequency (RF) radiation emitted by FCC-regulated facilities and operations.

2. In the earlier *Report and Order* (50 FR 11151; 3/20/85) in this proceeding the Commission amended its rules in Part 1 implementing the National Environmental Policy Act of 1969 (NEPA). The amendment provided that potential human exposure to environmental RF radiation would be explicitly evaluated at the time of licensing or authorization of designated FCC-regulated services. At the same time, a *Further Notice of Proposed Rule Making* (50 FR 10814; 3/18/85) proposed that most other FCC-regulated services would be categorically excluded from such routine environmental evaluation. This proposal was based on the premise that these other services do not generally cause excessive human exposures due to such factors as their low operating power, intermittent use, or relative inaccessibility.

3. We requested comment on our proposal for categorical exclusion and, also, we asked for responses to a list of specific questions relating to this issue. The comments received generally supported the Commission's proposed exclusions, and much useful information and data were submitted in response to the list of questions. The comments and responses are summarized in Appendix C of this item.

4. This item amends § 1.1307(b) of the FCC Rules and Regulations by specifying that routine environmental evaluation, with regard to RF radiation exposure will only be required for services licensed or approved under the following Parts of the Rules: Part 5 (experimental radio), Part 25 (satellite communications), Part 73 (radio and television broadcast), Part 74, Subpart A (experimental broadcast), and Part 74, Subpart G (low power television). All other FCC-regulated services are categorically excluded from routine environmental evaluation for RF radiation as outlined in Part 1.

5. In addition to our proposal for categorical exclusion, we had also requested comment on a second proposal to require routine

environmental evaluation under Part 1 of the Rules for ship earth stations. This proposal was based on our tentative conclusion that these transmitters might cause excessive exposures to RF radiation. We have modified this original proposal, and, in an accompanying *Third Notice of Proposed Rule Making* we are proposing to amend Part 80 of the FCC Rules to add a requirement that ship earth stations and ship radar stations not cause excessive exposure to RF radiation.

6. With the attached item the Commission continues its development of policy regarding the issue of human exposure to RF radiation emitted from FCC-regulated sources. This policy can basically be summarized as follows. The larger, more powerful, or more accessible RF sources must be evaluated for their potential to cause excessive and possibly hazardous exposures. This evaluation could take place either at the time of a Commission action on an application, or, in the case of ship earth stations and ship radar stations, we are proposing to establish a specific requirement for manufacturers and users. The very large number of relatively low-powered, inaccessible, or intermittent sources will be categorically excluded from evaluation, unless required on an ad hoc basis by the Commission or FCC staff.

7 Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. Section 604, a final regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

8. This item has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Ordering Clauses

9. Accordingly, it is ordered that, effective May 26, 1987 Part 1 of the Commission's Rules and Regulations, Chapter I of Title 47 of the Code of Federal Regulations, is amended as set forth below and that this amendment will be applicable to applications filed on or after this effective date.

List of Subjects in 47 CFR Part 1

Practice and procedure, National Environmental Policy Act, Radiofrequency radiation.

Rule Changes

Part 1, Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for Part 1 continues to read:

Authority: Sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r).

2. Section 1.1307 is amended by revising the note following paragraph (b) as follows:

§ 1.1307 Actions which may have a significant environmental effect, for which environmental assessments (EAs) must be prepared.

* * * * *

(b) * * *

Note.—The provisions of paragraph (b) shall only apply to facilities and operations licensed or authorized under Parts 5, 25, 73, and 74 (Subparts A and G only) of the FCC Rules and Regulations. Facilities and operations licensed or authorized under other Parts or Subparts of the FCC Rules and Regulations shall be categorically excluded from consideration under this paragraph unless such exclusion is superseded by actions taken by the Commission under the provisions of paragraphs (c) or (d) of this section.

* * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-8956 Filed 4-21-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 15

[GEN Docket 85-231]

Non-licensed Operation of Perimeter Protection Systems; Correction

AGENCY: Federal Communications Commission.

ACTION: Final Rule; correction.

SUMMARY: On February 27 1987 the Commission adopted a Report and Order in GEN Docket 85-231 to provide for the non-licensed operation of perimeter protection systems in the 54-72 and 76-88 MHz bands under Part 15 of the Rules. This document corrects an error in that document.

FOR FURTHER INFORMATION CONTACT: Liliane Volcy, Technical Standards Branch, Office of Engineering & Technology, (202) 653-7316.

SUPPLEMENTARY INFORMATION: The full text of the Commission's Report and Order, GEN Docket 85-231, FCC 87-75, adopted February 27 1987, released March 13, 1987 is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857-3800, 2100 M Street NW., Washington, DC 20037

§ 15.324 [Corrected]

The Commission's Report and Order 52 FR 9296 (March 24, 1987) is corrected by removing on page 9298 under § 15.324(b) the words "76-78 MHz" and inserting, in their place, the words "76-88 MHz."

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-8968 Filed 4-21-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-221; RM-5296]

Radio Broadcasting Services; Grover City, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 297B1 for Channel 298A at Grover City, CA, and modifies the Class A license of Station KLOI(FM), in response to a petition filed by R and L Broadcasters. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 28, 1987

FOR FURTHER INFORMATION CONTACT: Nancy V Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-221, adopted March 27 1987 and released April 14, 1987 The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202(b) [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under California by revising Channel 297B1 to read Channel 296A at Grover City.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-8965 Filed 4-21-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-100; RM-5031]

Radio Broadcasting Services; Morgan Hill and Freedom, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel FM 241A to Morgan Hill, CA, as that community's first local service, and substitutes Channel 298A for 240A at Freedom, CA, in response to a petition filed by Eric R. Hilding and Claudia W. Bartosiewicz. With this action, this proceeding is terminated.

DATES: Effective May 28, 1987. The window period for filing applications on Channel 241A at Morgan Hill, CA will open on May 29, 1987 and close on June 29, 1987

FOR FURTHER INFORMATION CONTACT: Nancy V Joyner, Mass Media Bureau (202) 634-6530, concerning the allotment. Questions related to the application process should be addressed to Dennis Williams, Chief, FM Branch, Mass Media Bureau, (202) 632-6908.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-100, adopted March 19, 1987 and released April 14, 1987 The full text of this Commission decision available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended by adding Morgan Hill, Channel 241A, under California.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-8961 Filed 4-21-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-72; RMs-5073; 5240; 5404; 5405; 5406]

Radio Broadcasting Services; Columbia, Greenwood, Hartsville, Lexington, North Augusta and West Columbia, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 248C1 for Channel 250 at Columbia, SC, and modifies the license of Station WCOS to specify operation on the newly allocated channel, thus eliminating long-standing egregious short-spacings between Station WCOS and three co- or adjacent channel stations, at the request of the licensee, WCOS, Inc., allocates Channel 253A to Lexington, SC, as the community's first local FM service, at the request of Standard Broadcasting, Inc., allocates Channel 253A to Hartsville, SC, at the request of Hartsville Broadcasting Company, Inc., and on the Commission's own motion reallocates Channel 261A from Columbia to West Columbia, to reflect its actual use there by Station WSCQ. Channel 253A can be allocated to Lexington and Hartsville in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. Channel 248C1 can be allocated to Columbia in compliance with the Commission's minimum distance separation requirements and used at Station WCOS' transmitter location. The request of South Carolina Educational TV Commission to allocate Channel 248C2 to Greenwood, SC, and reserve it for noncommercial educational use is denied since it would require Station WCOS at Columbia to involuntarily downgrade its operation on its present channel or to relocate its transmitter and operate on Channel 253C1. The request of Gospel Radio, Inc. to allocate Channel 248A to North Augusta, SC, is denied since it would require Station WCOS and the affected stations to remain operating short-spaced. With this action, this proceeding is terminated.

DATES: Effective May 28, 1987. The window period for filing applications for Channels 253A at Hartsville and Lexington, SC, will open on May 29, 1987 and close on June 29, 1987

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-72, adopted March 25, 1987 and released April 14, 1987 The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for South Carolina is amended by deleting Channels 250 and 261A and adding Channel 248C1 at Columbia, adding Channel 253A at Hartsville, adding Channel 253A at Lexington, and adding Channel 261A at West Columbia.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-8964 Filed 4-21-87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-341; RM-5331]

Radio Broadcasting Services; Lowry, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 264 to Lowry, South Dakota, as the community's first local FM service, at the request of the South Dakota State Board of Directors for Educational Television. Channel 264 can be allocated in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. With this action, this proceeding is terminated.

DATES: Effective May 28, 1987. The window period for filing applications will open on May 29, 1987 and close on June 29, 1987

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-341, adopted March 27 1987 and released April 14, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for South Dakota is amended by adding Lowry, Channel 264.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-8963 Filed 4-21-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-259; RM-5274]

Radio Broadcasting Services; Cruz Bay, Virgin Islands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 222B to Cruz Bay, Virgin Islands, as that community's first FM service, at the request of Christopher Zoller. A site restriction of 6.2 kilometers (3.9 miles) east of the community is required. With this action, this proceeding is terminated.

DATES: Effective May 28, 1987. The window period for filing applications will open on May 29, 1987 and close on June 29, 1987

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-259, adopted March 27 1987 and released April 14, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Virgin Islands by adding Channel 222B to Cruz Bay.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-8962 Filed 4-21-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 86-161]

Amendment of the Amateur Radio Service Rules To Expand the Privileges Available to Novice Operators

AGENCY: Federal Communications Commission.

ACTION: Request for stay denied.

SUMMARY: The FCC expanded the requirements of the written examination for the Novice Operator license, effective March 21, 1987. Martin Schwartz of Ameco Publishing Corporation sought a temporary stay until July 21, 1987 so that small businesses would not experience significant monetary losses due to obsolete inventory of test preparation materials. The FCC said that the mere allegation of adverse financial impact, without more, is insufficient to show irreparable injury warranting a stay. The FCC found that other parties who had already published new materials would like suffer injury. The FCC also found that a stay would not be in the public interest since Novices should possess the greater knowledge that would come from preparing for the expanded examination.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Amateur radio, Examinations, Radio.

Order

Adopted: March 25, 1987.
Released: April 13, 1987.

By the Deputy Chief, Private Radio Bureau.

In the matter of amendment of the amateur radio service rules to expand the privileges available to novice operators; PR Docket No. 86-161, RM 5022 RM-5038, RM 5023 RM-5251, RM 5024 RM-5281, and RM 5025 RM-5282.

1. On February 10, 1987 the FCC released a *Report and Order* in this proceeding which expanded the operating privileges of Novice operator licensees in the amateur service. Since proficiency examinations are required in this service, the FCC concomitantly expanded the requirements of the written examination for the Novice operator license. The effective date of this action was March 21, 1987

2. On March 11, 1987 Martin Schwartz of Ameco Publishing Corporation filed a petition to temporarily stay the effective date of the expanded examination requirement.[1] He sought to avoid "significant monetary losses to many small businesses including distributors, and publishers, as well as clubs and individuals who purchased materials which were rendered obsolete overnight by the March 21st date." Schwartz requested that the new examination requirements go into effect July 21, 1987

[1] Mr. Schwartz did not seek to stay the new operating privileges.

3. Before a grant of a request for stay is warranted, the petitioner must demonstrate that a failure to grant a stay would lead to irreparable injury, that granting the stay would not harm other interested parties and that the stay would be in the public interest. See, *Pochahontas Cable TV Inc. and Newport TV Cable, Inc.*, 40 RR 2d 891 (1977); 64 FCC 2d 698 (1977). After consideration of Schwartz's arguments, it is concluded that the petitioner has not demonstrated that a stay is warranted.

4. The irreparable injury that Schwartz seeks to show is presumably to be found in an obsolete inventory of test preparation materials, although he has provided no estimate of the magnitude or value of such inventory. However, the mere allegation of adverse financial impact, without more, is insufficient to show irreparable injury warranting a stay. See, *Wisconsin Gas Co.* v. *FERC*, 758 F2d 669 (D.C. Cir., 1985).

5. As to the other factors required for a stay, we find that other interested parties are likely to be injured by a grant of the relief. Other parties have published materials in reliance on the rules we adopted. Grant of a stay here would harm them by invalidating the products they have brought to the market.

6. Finally, Schwartz asserts that grandfathering Novices who pass the old test during the requested interim period makes more sense than causing "havoc in testing."

7 We disagree. Novice Class operators have extensive new operating privileges. To help prevent interference, operational problems and personal injury from operation at microwave frequencies, Novices should possess the greater knowledge that would come from preparing for the expanded examination.

8. In view of the foregoing, we find that a grant of the stay would not be in the public interest.

9. Under the authority delegated by § 0.331 of the FCC Rules, *It is ordered*, That the Request for Stay *Is Denied*.

Federal Communications Commission.

Ralph A. Haller,

Deputy Chief, Private Radio Bureau.

[FR Doc. 87-8967 Filed 4-21-87 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1002

[Ex Parte No. 246 (Sub-No. 2)]

Practice and Procedure; Fees for Services Performed in Connection With Licensing and Related Services [1]

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: On December 18, 1986, at 51 FR 45348, the Commission published a notice reopening its 1984 user fee decision [published, as corrected, at 49 FR 27154 (July 2, 1984)] and its 1985 user fee decision [published, as corrected, at 50 FR 47224 (November 15, 1985)] and seeking comments on the proposed adjustments to the fee schedule required by the decision in *Central & Southern Motor Freight Tariff Ass'n Inc.* v. *United States*, 777 F.2d 722 (D.C. Circuit, 1985).

In this decision the Commission adopts the proposed modifications which will increase the Commission's filing fee for the Fee Item (74), the filing of tariffs, rate schedules and contracts, including supplements, to $6.00 per series transmitted and which will change two items in the 1984 schedule.

The proposed 1986 fee schedule update is adopted.

Further, the description of the Fee Item (60) of the schedule relating to formal complaints is clarified.

EFFECTIVE DATE: June 1, 1987

FOR FURTHER INFORMATION CONTACT: Kathleen M. King, (202) 275-7428.

SUPPLEMENTAL INFORMATION: As a result of the court's decision in *Central & Southern Motor Freight Tariff Ass'n, Inc.* v. *United States*, 777 F.2d 722 (D.C. Cir. 1985), the Commission has reviewed its calculation of the operations overhead cost factor used to develop fees for performing services for the public and its calculations of the specific costs for the tariff filing fee. In the notice of proposed rulemaking (NPR), the Commission proposed to modify its calculations of the operations overhead cost factor and the calculation of the tariff filing fee. No comments were received from the public on the Commission's proposals. Accordingly, those proposals are being adopted.

Based on actual budget data, the Commission has changed its calculation of operations overhead costs from 10.82 percent to 9.34 percent for its 1984 fee schedule. Since the Commission's fees are set at levels lower than its fully distributed costs (due to a rounding down procedure), the recalculation of operations overhead has little effect on the actual fee levels. Only two fee items on the 1984 schedule will change: Fee Item (42), A notice or petition to discontinue passenger train service, should have been established at $6,200 rather than $6,300, and Fee Item (44), An application for use of terminal facilities or other applications under 49 U.S.C. 11103, should have been established as $5,200 rather than $5,300. Anyone who filed either type of application between July 2, 1984, and November 4, 1985, when the 1984 fee schedule was in effect would be entitled to a refund of $100. A review of the Commission's fee records shows that no such filings were made during that time period. Therefore, refunds are not required.

Upon re-examination, the direct labor cost for processing tariff filings has been calculated at $3.35. The fully allocated cost level for 1984 should have been $5.98. Thus our calculation of $4.86 in our 1984 fee decision (which produced a fee of $4.00) was lower than our our actual costs. In 1985, the tariff filing fee increased to $5.00, when fees were adjusted to reflect 1985 costs of services. However, based upon the change in direct labor noted above and taking into consideration update factors for 1985, the tariff filing fee must be increased to $6.00 because our fully allocated costs for processing a tariff filing is $6.17

We will make the increase in the tariff filing fee effective on June 1, 1987 to provide adequate time for our staff to notify those persons who use our monthly tariff filing billing system.

The Commission is required to recalculate its costs for providing services to public annually. See 49 CFR 1002.3. In our NPR we outlined our projected fee costs for 1986. There was no increase in direct labor costs because there was no Governmental general schedule wage increase. Our general and administrative expenses decreased slightly in 1986, which resulted in slightly lower fully distributed costs. Since no decrease is substantial enough to cause any reductions in fees, there will be no change in the Commission's fee schedule for 1986 other than the change in the tariff filing fee discussed above.

It has been brought to our attention that there have been questions raised as to whether the filing fee of $500 for Fee Item (60) would apply to a formal complaint against a transportation

[1] This decision embraces Ex Parte No. 246 (Sub-No. 3), *Regulations Governing Fees for Services—1985 Update*, 2 ICC 2d 23 (1985) and Ex Parte No. 246 (Sub-No. 4), *Regulations Governing Fees for Services Performed In Connection With Licensing and Related Services—1986 Update*.

broker because the description of that fee item reads, "A complaint alleging unlawful rate or practices of carriers." That fee was intended to cover any type of formal complaint filed against any regulated entity. Complaints filed pursuant to 49 U.S.C. 11701 against a broker or a complaint against a freight forwarder of household goods are included in that fee category. See Appendix D, Fee Item (60), *1984 User Fee Decision*, 1, ICC 2d 60. Accordingly, the item description (60) is modified to read, "A complaint alleging unlawful rates or practices of carriers, property brokers or freight forwarders of household goods.

This decision should not have a significant impact upon the quality of the human environment or the conservation of energy resources. Nor should it have a significant effect on a substantial number of small entities.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call 289-4357 (D. C. Metropolitan area).

List of Subjects in 49 CFR Part 1002

Administrative practices and procedures and Common carriers.

It is ordered:

(1) The Commission's decisions of April 25, 1984, and September 19, 1985, are reopened, modified and supplemented to the extent set for in the decision.

(2) The filing fees for Fee Item (42) contained in our 1984 fees schedule is reduced to $6,200 and the filing fee for Fee Item (44) contained in the 1984 fee schedule is reduced to $5,200.

(3) The final rules are adopted. These rules will be effective on June 1, 1987

(4) The fee schedule adopted in our 1985 User Fee Decision, 2 ICC 2d 23 (1985), as modified in this decision, is adopted as the Commission's 1986 fee schedule.

Decided: April 13, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1002—FEES

1. In Part 1002 the authority citation continues to read as follows:

Authority: 5 U.S.C. 533, 31 U.S.C. 9701, and 49 U.S.C. 10321.

2. In 1002.2 paragraphs (f) (60) and (74) are revised as follows:

* * * * *

(f) * *

(60) A complaint alleging unlawful rates or practices of carriers, property brokers or freight forwarders of household goods—$500.00.

* * * *

(74) The filing of tariffs, rate schedules, and contracts, including supplements—$6.00 per series transmitted.

* * * * *

[FR Doc. 87-9002 Filed 4-21-87; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 52, No. 77
Wednesday, April 22, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1d

Rural Labor

AGENCY: Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: Section 302(a) of the Immigration Reform and Control Act of 1986, Pub. L. No. 99-603 (hereinafter referred to as the "Act") states that "seasonal agricultural services" means "the performance of field work relating to planting, cultural practices, cultivating, growing and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined in regulations by the Secretary of Agriculture." This authorized the Secretary of Agriculture to publish regulations defining the fruits, the vegetables, and the other perishable commodities in which the field work related to planting, cultural practices, cultivating, growing, and harvesting will be considered "seasonal agricultural services" for the purposes of the Act. This notice proposes regulations to define the words and terms necessary to carry out the responsibility of the Secretary under section 302(a) of the Act.

DATE: Comments must be received no later than May 13, 1987.

ADDRESS: Send comments to room 227-E, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250. Written comments received may be inspected in Room 227-E of the Administration Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Al French, Acting Special Assistant (for Labor Affairs) to the Assistant Secretary for Economics, Room 227-E, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250, phone (202) 447-4737

SUPPLEMENTARY INFORMATION:

Background

The Act makes it illegal for employers to employ, recruit, or hire undocumented aliens in the United States and imposes penalties upon employers who violate the Act. This prohibition implements one of the purposes of the Act, which is to reduce the flow of illegal aliens into the United Syates, in part, by reducing the incentive of the employment opportunities available in this country. At the same time, Congress recognized that many of the agricultural employers in the nation were dependent upon illegal alien workers to meet their production and harvesting needs. To address the needs of those agricultural employers, the Act created the Special Agricultural Workers program.

Prior to the enactment of the Act, the Immigration and Nationality Act established a program for the importation of alien workers to perform temporary services or labor. 8 U.S.C. 1101(a)(15)(H)(ii)(b). The H-2 program, as it is popularly referred to, provides for the employment of temporary alien workers by employers certified by the Department of Labor to have a shortage of qualified domestic workers. The existing H-2 program was deemed to be insufficient to meet the needs of certain agricultural employers. In an effort to fulfill the labor requirements of such employers, Congress created the H-2A program in the Act. 8 U.S.C. 1101(a)(15)(H)(ii)(a). The H-2A program in essence is a revised version of the H-2 program with shorter time requirements.

As a result of testimony offered by agricultural employers in hearings, Congress was convinced that the H-2A program was too structured to meet the needs of certain "agricultural interests, particularly western growers of perishable agricultural commodities who have come to rely heavily on the existence of an undocumented work force." p. 83, H.R. Rep. No. 682, Part 1, 99th Cong., 2nd Sess. (1986). In a further effort to meet the needs of these growers of perishable agricultural commodities, the Act amended the Immigration and Nationality Act to create a class of immigrant aliens called Special Agricultural Workers. Section 302 of the Act. The Special Agricultural Workers program is restricted to aliens who have resided and worked in the United States for qualifying periods identified by the Act while performing seasonal agricultural services. "Seasonal agricultural services" are defined by the Act to be "field work related to planting, cultural practices, cultivation, growing, and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined by the Secretary of Agriculture."

Under the Special Agricultural Workers program of the Act, alien workers that have performed seasonal agricultural services in this country for a prescribed period of time are permitted to apply for temporary residence in the United States. The proposed rule essentially determines the particular fruits, vegetables, and other perishable commodities in which an alien worker may perform field work to qualify as having performed seasonal agricultural services. The Immigration and Naturalization Service (INS) accepts applications from the alien workers and considers them in light of the proposed rule. The INS will determine which special agricultural workers shall be admitted into the United States for temporary residence.

Explanation

The legislative history of the Act indicates that Congress considered several different factors which could be used to help in identifying other perishable commodities. Included among the factors considered were, whether the field work is seasonal, and whether the labor demand is unpredictable. The legislative history does not reflect clearly congressional intention on the meaning of "fruits and vegetables of every kind."

In an effort to comply with congressional intent regarding the fruits, vegetables, and other perishable commodities to be included within the definition of "seasonal agricultural services," consideration was given to creating an exhaustive list of the commodities to be included and to seeking an extant list of commodities that included the necessary commodities. Lists are cumbersome and rarely exhaustive. For that reason, broad, generic definitions are being proposed.

The effort in carrying out the responsibility of the Secretary of

Agriculture to promulgate definitions also entailed defining several other terms in this proposed rule. The terms defined in the proposed rule are "critical and unpredictable labor demands," "field work," "fruits," "horticultural specialties," "other perishable commodities," "seasonal," "seasonal agricultural services," and "vegetables." A definition for each of these terms is needed to understand the fruits, vegetables, and perishable commodities that are to be included within the definitions of "seasonal agricultural services."

"Critical and unpredictable labor demands" is defined to make it clear that the use of alien workers is predicated upon unpredictable circumstances and the more immediate needs for labor which result from those circumstances. Typical of the circumstance which creates the critical, yet unpredictable demand for labor is weather or other climate conditions. As a result, a labor force would be needed on short notice.

"Field work" is defined to clarify the types of activities that workers may perform on agricultural land that will qualify as "seasonal agricultural services."

"Fruits" is defined in general botanical terms.

"Horticultural specialties" is defined to identify a group of perishable commodities that are neither fruits nor vegetables; but are produced as a result of seasonal field work and have critical and unpredictable labor demands.

"Other perishable commodities" is defined to include a broad group of commodities that are neither fruits nor vegetables; but are produced as a result of seasonal field work, and have critical and unpredictable labor demands.

"Seasonal" is defined to delineate the period during which any seasonal agricultural service is performed. The definition makes it clear that a person who is employed seasonally may still be employed throughout the year while performing different seasonal agricultural services.

"Seasonal agricultural services" is defined exactly as set out in the Act.

"Vegetables" is defined in general botanical terms.

The Secretary determined that the term "fruits and vegetables of every kind" leaves little discretion in the identification of the particular fruits and vegetables to be included within the definition of "seasonal agricultural services."

Adoption of a botanical definition is reasonable because of its clear scientific basis. It is recognized that this approach, while scientifically and legally sound, could lead to certain commonly perceived incongruities. C. Wilson and W Loomis *Botany* (5th Ed. 1971) note the popular misconceptions regarding fruits and vegetables:

> Confusion beclouds the use of the terms fruit and vegetable. Many fruits, such as the tomato, squash, cucumber, corn, and eggplant are popularly called vegetables. From a botanical standpoint these are fruits, and they may be distinguished from vegetables if the definition of fruits is kept in mind. A fruit always develops from a flower and is always composed of at least one ripened and mature ovary with which may be fused other parts of structures associated with the flower. Any edible part of the plant that does not conform to this definition of a fruit should be classified a vegetable.

While the botany literature in defining fruits and vegetables makes reference to their being edible, it is clear from the context in which these definitions are discussed that the reference is to consumption of the fruit or vegetable by humans. Thus, "human edible" has been made an explicit part of the botanical definitions of fruits and vegetables in this proposed rule.

The requirement in the proposed rule that the fruits or vegetables be human edible comports with congressional intent, especially given the distinction drawn by Congress between fruits and vegetables as opposed to other perishable commodities. While the broad botanical definitions in this proposed rule include virtually all fruits and vegetables, it is estimated that few additional alien workers will be eligible to be admitted as Special Agricultural Workers as a result. "Other perishable commodities" is essentially a listing of those commodities that are not fruits or vegetables; but are produced as a result of seasonal field work, and have critical and unpredictable labor demands.

The commodities excluded do not meet these criteria. For example, certain commodities are excluded because they are not produced as a result of field work as that term is defined in this proposed regulation. Commodities excluded based upon this expression of congressional intent include birds, livestock, animal specialties and the like.

Regulatory Impact

USDA has reviewed this proposed rule in accordance with Executive Order No. 12291 and has determined that it is not a major rule. Under the framework of the Act, the INS will use this proposed rule to assist it in determining which special agricultural workers will be admitted to the United States for temporary residence. Thus, the primary benefits of this proposed rule are internal to the operation of the United States government.

This action, in and of itself, will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individuals, Federal, state, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

This proposed rule defines fruits, vegetables, other perishable commodities, and other related and necessary terms to clarify the term "seasonal agricultural services." The proposed rule does not contain any compliance or reporting requirements, or any timetables. The proposed rule will assist the INS in determining the special agricultural workers to be admitted for temporary residence. Thus, the proposed rule, in and of itself, will have no significant impact upon small entities.

Paper Reduction Act

This proposed rule does not require additional procedures or paperwork not required already by law. Therefore, the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3502 et seq.) are inapplicable.

National Environmental Policy Act

This proposed rule will not have an impact upon the environment.

List of Subjects in 7 CFR Part 1d

Immigration, Rural labor.

1. In 7 CFR a new Part 1d "Rural Labor—Immigration Reform and Control Act of 1986—Definitions" is proposed to be added after Part 1c, to read as follows:

PART 1d—RURAL LABOR—IMMIGRATION REFORM AND CONTROL ACT OF 1986—DEFINITIONS

Sec.

Authority: Section 302(h) of Pub. L. No. 99-603; 100 Stat. 3422.

§ 1d.1 Scope.

The following definitions are applicable only to the Immigration Control and Reform Act of 1986, Pub. L. No. 99-603, and are published to fulfill the Secretary's responsibilities under that Act. Unless otherwise indicated, any list in this part is for illustrative purposes and is not intended to be an exclusive list of all of the commodities to be included or excluded.

§ 1d.2 Critical and unpredictable labor demands.

"Critical and unpredictable labor demands" means that a 60 day period during which field work is to be initiated cannot be predicted with any certainty.

§ 1d.3 Field work.

"Field work" means any employment performed on agricultural lands for the purpose of planting, cultural practices, cultivating, growing, harvesting, drying, processing, or packing any fruits, vegetables, or other perishable commodities. These activities have to be performed on agricultural land in order to produce fruits, vegetables, and other perishable commodities, as opposed to those activities that occur in a processing plant or packinghouse. Thus, the drying, processing, or packing of fruits, vegetables, and other perishable commodities in the field and the "on the field" loading of transportation vehicles are included. Operations using a machine, such as a picker or a tractor, to perform these activities on agricultural land are included. Supervising any of these activities shall be considered performing the activities.

§ 1d.4 Fruits.

"Fruits" means the human edible parts of plants which consist of the mature ovaries and fused other parts or structures, which develop from flowers or inflorescence.

§ 1d.5 Horticultural specialties.

"Horticultural specialties" means field grown, containerized, and greenhouse produced nursery crops which include juvenile trees, shrubs, seedlings, budding, grafting and understock, fruit and nut trees, small fruit plants, vines, ground covers, foliage and potted plants, cut flowers, herbaceous annuals, biennials and perennials, bulbs, corms, and tubers.

§ 1d.6 Other perishable commodities.

"Other perishable commodities" means those commodities which do not meet the definition of fruits or vegetables, that are produced as a result of seasonal field work, and have critical and unpredictable labor demands. This includes Christmas trees, cut flowers, herbs, hops, horticultural specialties, spanish reeds (arundo donax), spices, sugar beets, and tobacco. Commodities that do not experience critical and unpredictable labor demands such as aquacultural products, birds, cotton, dairy products, earthworms, fish including oysters and shellfish, fur bearing animals and rabbits, hay and other forage and silage, honey, horses and other equines, livestock of all kinds including animal specialties, poultry and poultry products, trees, soybeans, sugar cane, wildlife, and wool, are not considered perishable commodities.

§ 1d.7 Seasonal.

"Seasonal" means the employment pertains to or is of the kind performed exclusively at certain seasons or periods of the year. A worker who moves from one seasonal activity to another, while employed in agriculture or performing agricultural labor, is employed on a seasonal basis even though he or she may continue to be employed during the year.

§ 1d.8 Seasonal agricultural services.

"Seasonal agricultural services" means the performance of field work related to planting, cultural practices, cultivating, growing, and harvesting of fruits and vegetables of every kind and other perishable commodities.

§ 1d.9 Vegetables.

"Vegetables" means the human edible leaves, stems, roots, or tubers of herbaceous plants.

Done at Washington, DC, this 20th day of April 1987.

Peter C. Meyers,

Acting Secretary of Agriculture.

[FR Doc. 87-9125 Filed 4-21-87; 8:45 am]

BILLING CODE 3410-01-M

Commodity Credit Corporation

7 CFR Part 713

Cotton Loan Deficiency Payments

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: This purpose of this proposed rule is to amend the regulations governing loan deficiency payments for the 1987 through 1990 crops of upland cotton. Under the proposed rule, if loan deficiency payments are made available with respect to a crop of upland cotton, a producer of eligible upland cotton may forego loan eligibility on one or more bales of upland cotton and instead receive a loan deficiency payment based upon the quantity of eligible cotton the producer agrees not to pledge as loan collateral. A determination to receive a loan deficiency payment with respect to a portion of a producer's total upland cotton production will not, under the proposed rule, affect the eligibility of the producer's remaining production to be pledged to the Commodity Credit Corporation as security for a price support loan.

DATE: Comments must be received on or before May 22, 1987 to be assured of consideration.

ADDRESS: Send comments to Director, Cotton, Grain and Rice Price Support Division, USDA-ASCS, P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this rule will be made available for public inspection in Room 3627-South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Beverly Pritts, Cotton, Grain and Rice Price Support Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Phone: (202) 447-8374.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified as "not major" It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal Assistance Programs to which this proposed rule applies are: Commodity Loans and Purchases—10.051 and Cotton Production Stabilization—10.052 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to the provisions of this proposed rule since the Commodity Credit Corporation ("CCC") is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this proposed rule.

It has been determined by an environmental evaluation that this

action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V published at 48 FR 29115 (June 24, 1985).

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44 U.S.C. Chapter 35 and OMB Numbers 0560–0004, 0560–0030, 0560–0050, 0560–0071, 0560–0084, and 0560–0092 have been assigned.

Loan Deficiency Program

Currently, the regulations at 7 CFR 713.55 provide that, as a condition of eligibility for a loan deficiency payment, eligible producers must agree to forego obtaining a price support loan on their total farm production.

In order to provide producers more flexibility in making their marketing decisions, it has been determined that these regulations should be amended to allow eligible producers of upland cotton to obtain loan deficiency payments with respect to their production on a bale-by-bale basis for the 1987 and subsequent crops of upland cotton.

The public is invited to comment on these proposed amendments. Consideration will be given to any data, views, and recommendations that may be received relating to these issues.

List of Subjects in 7 CFR Part 713

Cotton, Feed grains, Price support programs, Wheat, Rice.

Accordingly, the regulation at Part 713 of Title 7 of the Code of Federal Regulations is proposed to be amended as follows:

PART 713—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR Part 713 continues to read as follows:

Authority: Secs. 101A, 103A, 105C, 107C, 107D, 107E, 109, 113, 401, 403, 503, 504, 505, 506, 507 508, and 509 of the Agricultural Act of 1949, as amended; 99 Stat. 1419, as amended, 1407 as amended, 1395, as amended, 1444, 1383, as amended, 1448; 91 Stat. 950, as amended, 950, as amended, 63 Stat. 1054, as amended, 99 Stat. 1461, as amended, 1462, 1463, 1464 (7 U.S.C. 1441–1, 1444–1, 1444b, 1445b, 1445b–2, 1445b–3, 1445b–4, 1445d, 1445h, 1421, 1423, and 1461 through 1469); sec. 1001 of the Food Security Act of 1985, as amended, 99 Stat. 1444 (7 U.S.C. 1308); sec. 1001 of the Food and Agriculture Act of 1977, as amended, 91 Stat. 950, as amended (7 U.S.C. 1309).

2. Section 713.55 is revised to read as follows:

§ 713.55 Loan deficiency program.

(a) The Secretary will announce whether loan deficiency payments will be made available to producers on a farm for a specific crop for a corp year.

(b) Loan deficiency payments on wheat, feed grains, rice and 1986 crop of upland cotton.

(1) In order to be eligible to receive loan deficiency payments if such payments are made available for a crop of wheat, feed grains, rice, or the 1986 crop of upland cotton, the producer of such commodity must:

(i) Comply with all of the program requirements to be eligible to obtain loans or purchases in accordance with Parts 1421 and 1427 of this title;

(ii) Agree to forego obtaining such loans or purchases; and

(iii) Otherwise comply with all program requirements.

(2) The loan deficiency payment applicable to a crop of wheat, feed grains, rice, or the 1986 crop of upland cotton shall be computed by multiplying the loan payment rate, as determined in accordance with paragraph (d) of this section, by the quantity of the crop the producer is eligible to pledge as collateral for a price support loan in accordance with Parts 1421 and 1427 of this title but not to exceed the product obtained by multiplying:

(i) The individual farm program acreage for the crop determined in accordance with § 713.108 by

(ii) The farm program payment yield for the farm provided in § 713.6.

(c) Loan deficiency payments on 1987 and subsequent crops of upland cotton.

(1) In order to be eligible for any loan deficiency payments if such payments are made available for a crop of upland cotton, the producer must:

(i) Comply with all of the program requirements to be eligible to obtain loans in accordance with Part 1427 of this title;

(ii) Agree to forego obtaining such loans on the quantity of upland cotton with respect to which a loan deficiency payment is requested; and

(iii) Otherwise comply with all program requirements.

(2) The loan deficiency payment applicable to a crop of upland cotton shall be computed by multiplying the loan payment rate, determined in accordance with paragraph (c) of this section, by the quantity of the crop eligible to be pledged as collateral for a price support loan in accordance with Part 1427 of this title but with respect to which the producer agrees to forego obtaining such loan, but not to exceed the product obtained by multiplying:

(i) The individual farm program acreage for the crop determined in accordance with § 713.108 by

(ii) The farm program payment yield for the farm provided in § 713.6.

(d) The loan payment rate for a crop shall be the amount by which the level of price support loan originally determined for the crop exceeds the level at which CCC has announced, in accordance with Parts 1421 and 1427 of this title, that producers may repay their price support loans.

(e) With respect to upland cotton, an amount not to exceed one-half of such payment may be made and, with respect to rice, an amount not to exceed one-half of such payments shall be made in accordance with Part 770 of this chapter.

Signed at Washington, DC, on April 17, 1987.

Milt J. Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 87–8982 Filed 4–21–87; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-222-AD]

Airworthiness Directives: British Aerospace Model BAe–146 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to British Aerospace Model BAe–146 series airplanes, that would require periodic inspection and replacement, if necessary, of the flap system torque limiters. This proposal is prompted by reports of loss of primary drive of the flap torque limiters due to excessive sprocket wear. Failure of the flap drive system could result in reduced controllability of the airplane.

DATES: Comments must be received no later than June 15, 1987

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional

Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-222-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967 Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by Administration before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing data for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-222-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on certain Model BAe-146 airplanes. There have been reports of loss of primary drive of the flap system torque limiters due to excessive sprocket wear. Failure of the flap drive system could result in reduced controllability of the airplane.

British Aerospace has issued Alert Service Bulletin No. 27-A54, Revision 1, dated April 22, 1986, which described procedures for inspection of the torque limiter drive sprocket splines for excessive backlash, and replacement, if necessary. The CAA has classified this alert service bulletin as mandatory.

British Aerospace has also issued Service Bulletin 27-54-70193A, Revision 1, dated June 3, 1986, which describes a modification of the flap drive system which, if accomplished, terminates the need for the repetitive inspections described in Alert Service Bulletin 27-A54.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, and AD is proposed that would require repetitive inspections of the torque limiter drive sprocket splines and replacement, if necessary, in accordance with BAe Alert Service Bulletin 27-A54, Revision 1, dated April 22, 1986. Modification of the flap drive system in accordance with BAe Service Bulletin 27-54-70193A, Revision 1, dated June 3, 1986, would constitute terminating action for the repetitive inspection requirements.

It is estimated that 30 airplanes of U.S. registry would be affected by this AD, that it would take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $14,400 per inspection cycle.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($480). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe-146 series airplanes listed in British Aerospace BAe-146 Service Bulletin 27-54-70193A, Revision 1, dated June 3, 1986, certificated in any category.

Compliance required within 60 days after the effective date of this AD.

To prevent the loss of primary or secondary drive of the flap system torque limiter output, accomplish the following, unless previously accomplished:

A. Inspect torque limiter drive sprocket splines for excessive backlash and replace, if necessary, in accordance with BAe Alert Service Bulletin 27-A54, Revision 1, dated April 22, 1986.

B. Repeat the following inspections described in BAe Service Bulletin 27-A54, Revision 1, dated April 22, 1986;

1. Paragraph 2A: at intervals not exceeding 600 landings.

2. Paragraph 2B: at intervals not exceeding 200 landings.

C. Modification of the flap drive system in accordance with BAe Modification Service Bulletin 27-54-70193A, Revision 1, dated June 3, 1986, terminates the repetitive inspection requirements of paragraph B., above.

D. An alternative means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20014. These documents may be examined at the

FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 15, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-8945 Filed 4-21-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-26-AD]

Airworthiness Directives: Short Brothers PLC Model SD3-60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Short Brothers PLC Model SD3-60 series airplanes, that would require installation of an aluminum cover to protect the flight data recorder (FDR). This proposal is prompted by reports of corrosion of circuit cards in the electronic section of the recorder, which has resulted in the inability to obtain data from the FDR. The proposed AD is needed to prevent the loss of information that, in the event of an accident, may be used to determine the cause and, thereby, prevent future accidents.

DATES: Comments must be received no later than June 15, 1987

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-26-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Shorts Aircraft, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3702. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967 Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data; views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-26-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of reports of corrosion of the circuit cards in the electronic section of the flight data recorder (FDR) on certain Short Brothers Model SD3-60 airplanes. This condition, if not corrected, would result in the lack of recorded information on the recording tape. In the event of an accident, this data is used to determine the cause and, thereby, prevent future accidents.

Short Brothers issued Service Bulletin SD360-31-04, Revision 2, dated October 1986, which describes the installation of a cover to prevent corrosion in the FDR. The CAA has classified the service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the installation of an aluminum cover to protect the FDR, in accordance with the previously mentioned service bulletin.

It is estimated that 43 airplanes of U.S. registry would be affected by this AD, that it would take approximately 2 manhours per airplane to accomplish the required actions, and that average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $3,440.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($80.). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Short Brothers PLC: Applies to Model SD3-60, serial numbers SH3601 through SH3679, certificated in any category. Compliance required within 90 days after the effective date of this AD, unless previously accomplished.

To prevent the potential for the loss of recorded information from the flight data recorder, due to the corrosion, accomplish the following:

A. Install a flight data recorder cover in accordance with the Shorts Service Bulletin No. SD360-31-04, Revision No. 2, dated October 1986.

B. Inspect the installed flight data recorder for corrosion of the circuit cards and correct as required in accordance with the appropriate recorder maintenance manual.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Moutain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modification required by this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Shorts Aircraft, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3702. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 15, 1987

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-8944 Filed 4-21-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Public Comment Period and Opportunity for Public Hearing on Proposed Amendment to Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing the receipt of a proposed amendment to the Virginia permanent regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments would restore the phrase "to the extent required under State law" to the regulations governing subsidence protection and subsidence control plan requirements with respect to structures and facilities. This notice sets forth the times and locations that the Virginia program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments relating to Virginia's proposed modification of its program not received on or before 4:00 p.m. on May 22, 1987 will not necessarily be considered in the decision process. A public hearing on the adequacy of the amendments will be held upon request at 1:00 p.m. on May 18, 1987 at the Big Stone Gap Field Office. Any person interested in making an oral or written presentation at the public hearing should contact Mr. William R. Thomas at the Big Stone Gap Field Office by the close of business on or before May 7 1987 If no one has contacted Mr. Thomas to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Thomas, a public meeting may be held in place of the hearing. If possible, a notice of the meeting will be posted in advance at the locations listed under "**ADDRESSES**"

ADDRESSES: Written comments and requests for a hearing should be mailed or hand-delivered to: Office of Surface Mining Reclamation and Enforcement, Attention: Virginia Administrative Record, P.O. Box 626, Room 214, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219. Copies of the proposed amendment, the Virginia program, the Administrative Record on the Virginia program and a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSMRE office and the office of the Virginia Division of Mined Land Reclamation listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting the OSMRE Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Office, Room 5315, 1100 "L" Street, NW., Washington, DC 20240, Telephone: (202) 343-5492.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, P.O. Box 626, Room 214, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303.

Virginia Division of Mined Land Reclamation, 622 Powell Avenue, Big Stone Gap, Virginia 24219, Telephone: (703) 523-2925.

FOR FURTHER INFORMATION CONTACT: Mr. William R. Thomas, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Room 214, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219; Telephone (703) 523-4303.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior approved the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval, can be found in the December 15, 1981 **Federal Register** (46 FR 61085-61115). Subsequent actions concerning the conditions of approval and proposed amendments are identified at 30 CFR 946.12, 946.13 and 946.15.

II. Submission of Amendment

By letter dated March 20, 1987 (Administrative Record No. VA-597), Virginia submitted a proposed amendment to Sections 480-03-19.784.20(f)(2) and 480-03-19.817.121(c)(2) of its Coal Surface Mining Reclamation Regulations. Section 480-03-19.784.20(f)(2) requires that subsidence control plans for underground mines include a description of the measures to be taken to mitigate or remedy any subsidence-related material damage to structures or facilities. Section 480-03-19.817.121(c)(2) requires that the permittee of an underground mine either correct any material subsidence-caused damage to structures or facilities or compensate the owner of such structures or facilities for the full amount of any diminution in value resulting from subsidence. The amendment would alter the damage correction provisions of both rules by restoring the phrase "to the extent required under State law" which, as codified at 30 CFR 946.12(b)(3), was disapproved in the rulemaking announcing the Director's decision on the revised set of Coal Surface Mining Reclamation Regulations submitted by Virginia by letter of November 8, 1985 (51 FR 42548-42555, November 25, 1986).

As explained in Finding 9 of the November 25, 1986 **Federal Register** notice (51 FR 42551), the Director disapproved this phrase because, on February 21, 1985, the Secretary suspended an identical phrase contained in the corresponding Federal regulations at 30 CFR 817.121(c)(2) to comply with the decision of the U.S. District Court for the District of

Columbia in *In re: Permanent Surface Mining Regulation Litigation II)* (Civil Action 79-1144, October 1, 1984). The court remanded this provision, which specified that an operator need be responsible for subsidence damage to structures only to the extent required by State law, for failure to provide adequate notice and opportunity to comment in accordance with the Administrative Procedure Act.

On July 8, 1985, OSMRE reproposed 30 CFR 817.121(c)(2) as promulgated on July 1, 1983. In the same notice, OSMRE also requested comment on proposed revisions to 30 CFR 784.20. On February 17 1987 after considering all public comments, OSMRE promulgated a revised version of 30 CFR 784.20 and repromulgated 30 CFR 817.121(c)(2) as it existed prior to the February 21, 1985 suspension notice (52 FR 4860-4868). Under these rules, operator responsibility for subsidence damage to structures or facilities will be determined by the applicable provisions of State law. Therefore, Virginia has requested that the Director remove his disapproval of similar provisions in the Commonwealth's regulations.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17 OSMRE is now seeking comment on whether the amendment proposed by Virginia satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Virginia program, and the Director will remove his previous disapproval.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than Big Stone Gap, Virginia will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business on May 7 1987 If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specific date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. A summary of the meeting will be included in the Administrative Record.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the OSMRE office listed under **"ADDRESSES"** by contacting the person listed under **"FOR FUTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 15, 1987.

Brent Walquist,

Deputy Director, Operations and Technical Services.

[FR Doc. 87-8980 Filed 4-21-87; 8:45 am]

BILLING CODE 4310-05-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-28; RM-5109]

Radio Broadcasting Services; Frayser, TN; Denial of Proposal

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of proposal.

SUMMARY: This document denies a petition filed by Earl Daly requesting the allotment of Channel 225A to Frayser, Tennessee because petitioner failed to provide information as to the provision of city grade coverage from the available site area. The channel cannot be alloted in compliance with the Commission's technical requirements. With this action, this proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-28, adopted March 6, 1987 and released April 14, 1987 The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-8960 Filed 4-21-87 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the California Freshwater Shrimp

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the California freshwater shrimp (*Syncaris pacifica*) to be an endangered species. The species is threatened by introduced predatory fish and deterioration or loss of habitat resulting from water diversion and impoundments, agricultural activities and development, urbanization, and water pollution. The California freshwater shrimp is known from only eleven streams in Napa, Marin, and Sonoma Counties, California. Determination of this animal as endangered would implement the protection provided under the Endangered Species Act of 1973, as amended. The Service seeks comments and relevant data from the public on this proposal.

DATES: Comments from all interested parties must be received by June 22, 1987 Public hearing requests must be received by June 8, 1987

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

The California freshwater shrimp, *Syncaris pacifica* (Holmes), is a decapod crustacean of the family Atyidae. Samuel J. Holmes first described *S. pacifica* as *Miersia pacifica* in 1895. In 1900, Holmes erected a new genus, *Syncaris*, for the California atyids based on notable differences in the chelae (pinchers) and rostrum (horn-shaped structure between the eyes). *S. pacifica* can be distinguished from *Palaemonias*, the only other atyid genus in the United States, by its well-developed, stalked eyes. It is the only surviving species in the genus *Syncaris*.

Adults may reach 5 centimeters (cm) (2½ inches) in length. Nearly transparent in water, the adults appear out of water to be greenish-gray to almost black with pale blue uropods (tail fins). An adult female lays relatively few eggs, (50–70, Hedgpeth 1975; 100–120, Eng 1981). While she carries the eggs on her body for 8 to 9 months, slow overwintering development of the eggs occurs. During this period, many larvae die due to adult female death and genetic or embryonic developmental problems. As a result, the number of embryos emerging from the eggs during May are reduced typically by 50 percent. During the first summer, larval growth is rapid, but sexual maturity is not reached until the second summer.

The California freshwater shrimp is endemic to gentle gradient (less than 1 percent), low elevation (below 115 meters [380 feet]), freshwater streams in Marin, Napa, and Sonoma Counties, California. The species, a true freshwater shrimp, inhabits quiet portions of tree-lined streams with underwater vegetation and exposed tree roots. Once common in the streams of the three counties, *S. pacifica* now occurs only within restricted portions of 11 streams. The shrimp's transparency, secretive habits, and rapid escape behavior contribute to its inconspicuousness and make it difficult to capture. The Califonia Department of Fish and Game (CDFG) attributed the decline in shrimp populations primarily to degradation and loss of their habitat resulting from increased urbanization, overgrazing, agricultural development, dam construction, and water pollution. (CDFG 1980). Essentially compatible with native fish species, *S. pacifica* is threatened by the introduction of exotic predators, especially fishs of the sunfish family. Because of the species' low reproductive potential, slow maturity, restricted distribution, and specialized habitat requirements, *S. pacifica* is particularly vulnerable to habitat loss and predation by exotic species against which its natural defense mechanisms are ineffective.

On June 4, 1974, the Service entered into a contract with the Sierra Club Foundation to investigate the status of freshwater shrimps in Pacific drainages. A final report under this contract was submitted in September 1975 by Dr. Joel W. Hedgpeth. Dr. Hedgpeth concluded in his report that *Syncaris pacifica* had been extirpated in some streams and was reduced in distribution and abundance in other streams. This report cited dredging, streambed gravel stockpiling, stream diversion, and building of summer gravel dams as the major factors responsible for the decline of the California freshwater shrimp. Larry Serpa (1985) reported the species inhabited 11 streams in the Russian River, San Francisco Bay, and other coastal drainages. These streams are East Austin, Salmon, Laguinitas, Big Austin, Sonoma, Huichica, Green Valley, Jonive, Walker, Yulupa, and Blucher.

The California freshwater shrimp was proposed as a threatened species on January 12, 1977, in the **Federal Register** (42 FR 2507). That proposal was withdrawn on December 10, 1979 (44 FR 70796), under a provision of the 1978 amendments to the endangered Species Act of 1973, which required withdrawal of all pending proposals if they were not finalized within two years of the proposal. On March 23, 1980, the Service received from CDFG a series of annotated maps delineating the known, current distribution of the California freshwater shrimp. These maps summarize the distribution data collected by CDFG in 1979 and 1980. Additional distributional data were received by the Service from the CDFG on October 30, 1980. CDFG later sent to the Service detailed information on the distribution, life history, and status of the shrimp in 1981 (Eng 1981, Serpa 1985). These maps and additional data constitute significant new information on which to propose endangered status for the California freshwater shrimp.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the California freshwater shrimp (*Syncaris pacifica* (Holmes)) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range.

The preferred habitat of the California freshwater shrimp is quiet, tree-lined pools and undercut banks along small, free-flowing, permanent streams. Livestock, agricultural activities and development, water pollution, heavy earth-moving equipment, and residential development have enroached upon and/or threaten these stream banks. Siltation from poor soil conservation practices, sand and gravel mining, and the building of temporary summer dams have destroyed shrimp habitat. Water diversions from the steams resulting in intermittent stream flow are flow are also detrimental to the species. Many streams currently or historically harboring the shrimp maintained a permanent flow. Various combinations of the above activities have extirpated the species from the Semple Creek, Laguna de Santa Rose Creek, Santa Rose Creek, Atascadero Creek, and the Napa River. Thes extirpations probably represent more than half of the historic range of the shrimp. The concrete lining of streams and rivers for flood control caused the extinction of *Syncaris pasadenae*, a species historically known from southern California. This flood control technique has extirpated the California freshwater shrimp in Santa Rosa Creek. The channelization and lining is likely to continue and increase as this area experiences rapid urban growth.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes.

Not applicable.

C. Disease or Predation.

Predation by fish significanly threatens the California freshwater shrimp, especially in altered habitats where cover from tree roots and underwater vegetation has been reduced or is absent. Introduced bluegill (*Lepomis*) exist in portions of Huichica Creek. Predation significantly threatens the California freshwater shrimp in East Austin Creek where temporary summer dams confine steelhead (*Salmo gairdneri*) Sacramento squawfish (*Ptychocheilus grandis*), and Tule perch (*Hysterocarpus traski*) with the shrimp in artifical pools (Bill Cox, CDFG, pers, comm, 1985). The effect of these dams on shrimp and steelhead populations is now being studied.

D. The Inadequacy of Existing Regulatory Mechanisms.

The California State Fish and Game Commission lists the California freshwater shrimp as endangered. However, State law provides no protection on privately-owned lands. The species receives some protection in those portions of its range within Samuel P Taylor State Park and Golden Gate National Recreation Area.

E. Other Natural or Manmade Factors Affecting its Continued Existence.

In the past, the shrimp was capable of recovering from environmental extremes, such as drought and spring floods, that resulted in localized extirpations. Historic silvicultural practices may have reduced the range of the species by altering the normal hydrologic regime. Today, these natural events devastate populations of the shrimp because the current loss of suitable habitat makes it difficult to effectively repopulate affected areas.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the species in determining to propose this rule. Based on this evaluation, the preferred action is to list the California freshwater shrimp as endangered. The continued degradation and loss of suitable habitat by the threats discussed under Factor A in the "Summary of Factors Affecting the Species" could result shortly in a substantial loss of the remaining populations, especially those colonies in East Austin Creek. Because of conflicts with long standing economic interest and recreational practices in those streams harboring the California freshwater shrimp, the shrimp may shortly become extinct, as was the case with its, *Syncaris pasadenae*. Provided with protection from habitat degradation and loss, local isolated colonies may repopulate many portions of its historic range. Critical habitate is not being designated for the species at this time for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the California freshwater shrimp at this time. As discussed under "Summary of Factors Affecting the Species," this species and its habitat are vulnerable to several activities, some of which could be carried out by a single individual, which makes the species vulnerable to acts of vandalism. These activities are difficult to regulate and control because the habitat of the shrimp predominantly occurs on privately-owned land. The precise pinpointing of localities that would result from publication of critical habitat descriptions and maps in the **Federal Register**, would make this species and its habitats more vulnerable to vandalism and would increase enforcement problems. The U.S. Army Corps of Engineers (COE), the Federal agency most involved with the shrimp, is aware of known localities and all other involved parties and land owners will be notified of the location and importance of this species' habitat. Therefore, it would not be prudent to determine critical habitat for the California freshwater shrimp at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangerd or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or

destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the service. The only known Federal activity that may affect the California freshwater shrimp is the authorization of temporary summer dams on East Austin Creek (by the COE). These gravel structures are built by local residents to impound water for swimming. The COE has issued an individual permit to a private organization authorizing three of these structures on East Austin Creek. This permit does not expire until 1990, provided that the permittee adheres to the general and special conditions of the permit such as consultation with the appropriate State and Federal agencies. Special permit conditions require the permittee to reduce the number, size, and height of these dams, including the amount of water impounded, and to reduce the number and size of beaches by 1990. The COE may modify, suspend, revoke, or cancel the permit at any time before 1990 if any of these conditions are not met by the permittee.

The Act and implementing regulations found at 50 CFR 17.21, set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communciations may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

California Department of Fish and Game. 1980. Unpublished range maps for *Syncaris pacifica.*

Eng, L.L. 1981. Distribution, life history, and status of the California freshwater shrimp, *Syncaris pacifica* (Holmes). Inland Fisheries Endangered Species Special Publication 18–1. Sacramento, Calif.

Hedgpeth, J.W. 1975. California fresh and brackish water shrimps, with special reference to the present status of *Syncaris pacifica* (Holmes). Report submitted to the Office of Endangered Species, U.S. Fish and Wildlife Service.

Holmes, S.J. 1895. Notes on west American crustacea. Proc. Calif. Acad. Sci. 4:563–588.

Holmes, S.J. 1900. Synopsis of California stalk-eyed crustacea. Occas. Pap. Calif. Acad. Sci. 7:7–262.

Serpa, L. 1985. *Syncaris pacifica.* Unpublished document developed for The Nature Conservancy.

Author

The primary author of this proposed rule is Dr. Jeurel Singleton, Sacramento Endangered Species Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1823, Sacramento, Calif. (916/978–4866 or FTS 460–4866).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17 Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "CRUSTACEANS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h)

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Crustaceans							
Shrimp, California freshwater	*Syncaris pacifica*	U.S.A. (CA)	NA	E		NA	NA

Dated: March 24, 1987

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-9034 Filed 4-21-8; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of minority report; correction.

SUMMARY: This notice corrects an omission in the summary of the notice of availability of a minority report on Amendment 1 to the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic which appeared in the **Federal Register** on April 3, 1987 (52 FR 10780).

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-893-3722.

In rule document 87-7334, beginning on page 10780, column 3, under the "**SUMMARY**" heading, the last sentence on page 10780 which continues on page 10781 should read "A minority report on this Amendment, prepared by five members of the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council is available to the public."

(16 U.S.C. 1801 *et seq.*)

Dated: April 17 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-9070 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 77
Wednesday, April 22, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration; Public Meeting

AGENCY: Administrative Conference of the United States.

ACTION: Meeting of the Committee on Administration.

Date: Friday, May 8, 1987

Time: 9:00 a.m.

Location: Department of Commerce, 14th & Constitution Avenue, NW., Room 5859, Washington, DC.

Agenda: (1) Professor Harold Bruff's study of constitutional issues in federal agency use of various alternative means of dispute resolution; and (2) Professor Marianne K. Smythe's study of innovative dispute resolution processes at the CFTC.

Contact: Charles Pou, Jr.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meetings will be available on request to the contact person. The contact person's mailing address is: Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037 These meetings are subject to the Federal Advisory Committee Act (Pub. L. 92–463).

Jeffrey S. Lubbers,

Research Director.

April 17, 1987.

[FR Doc. 87–9080 Filed 4–21–87; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 27, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report: (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contract person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 477–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent yu from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Animal and Plant Health Inspection Service

9 CFR Part 76—Hog Cholera and Other Communicable Disease
On occasion
Small businesses or organizations; 332 responses; 216 hours; not applicable under 3504(h)
Dr. R. Ormiston, (301) 436–8065

- Farmers Home Adminstration

7 CFR 1948–B, Energy Impacted Area Development Assistance Program
Recordkeeping; On occasion
State or local government; Non-profit institution; 96 responses; 50 hours; not applicable under 3504(h)
Jack Holston, (202) 382–9736

New

- Food and Nutrition Service

Evaluation of Effective Applicant Matching Systems
One time survey
State or local governments; 170 responses; 290 hours; not applicable under 3504(h)
Melody Bacha, (703) 756–3115

- Food and Nutrition Service

Evaluation of the One-Tier Federal Quality Control Pilot Project
Once per respondent
State or local governments; Federal agencies or employee; 858.6 responses; 91 hours; not applicable under 3504(h)
Ted Macaluso, (703) 756–3115.

Jane A. Benoit,

Departmental Clearance Officer.

[FR Doc. 87–9037 Filed 4–21–87; 8:45 am]

BILLING CODE 3410–01–M

National Commission on Dairy Policy; Advisory Committee Meeting

Pursuant to provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting.

Name: NATIONAL COMMISSION ON DAIRY POLICY

Time and Place: Syracuse Marriott, 6302 Carrier Parkway, East Syracuse, New York.

Status: Open.

Matters to Be Considered: On May 4, the Commission will hold a public hearing to receive testimony on the dairy price support program, new dairy technologies, and the influence of the program and technologies on the family farm. The meeting on May 5 is expected to review the public hearing, discuss Commission matters with the Executive Director, and discuss background materials related to the dairy industry.

Written Statements May Be Filed Before or After the Meeting With: Contact person named below.

Contact Person for More Information: Dr. David R. Dyer, Executive Director, National Commission on Dairy Policy, 1401 New York Ave., NW., Suite 1100, Washington, DC 20005, (202) 638–6222.

Signed at Washington, DC, this 15th day of April 1987

David R. Dyer,

Executive Director, National Commission on Dairy Policy.

[FR Doc. 87-9094 Filed 4-21-87 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation 1987-Crop Peanut Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determination—1987-crop peanut price support differentials for warehouse and farm-stored loan and purchase program.

SUMMARY: This notice sets forth proposed adjustment to the price support loan and purchase rates for the 1987-crop of quota and additional peanuts for differences in peanut type, quality, location and other factors. The adjustments apply to the warehouse-stored loan price support operations and farm-stored price support operations and are authorized by section 403 of the Agricultural Act of 1949 (the "1949 Act").

EFFECTIVE DATE: Comments must be received on or before May 22, 1987 in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Solomon J. Whitfield, Tobacco and Peanuts Division, ASCS, USDA, Room 5725 South Building, P.O. Box 2415, Washington, DC 20013, (202) 447-7127 A Preliminary Impact Analysis describing options considered in developing this proposed determination and the impact of implementing such options is available upon request from Mr. Whitfield.

SUPPLEMENTARY INFORMATION: This notice of proposed determination has been reviewed under USDA procedures in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified "not major" It has been determined that this proposed determination will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enteprises in domestic or export markets.

The title and number of the Federal assistance program to which this proposed determination applies are: Commodity Loans and Purchases, 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of proposed determination since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

In order to allow for adequate review of the comments and for the publication of a final determination prior to the end of the peanut planting period, it has been determined that the comment period will be limited to 30 days.

On the basis of an environmental evaluation, it has been determined that this action will have no significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitats, water quality, air quality, and land use and appearance. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed. This program is not subject to the provisions of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V published at 48 FR 29115 (June 24, 1983).

In accordance with section 108B of the 1949 Act, as added by Section 705 of the Food Security Act of 1985, average price support levels are announced by the Secretary of Agriculture for each crop year for quota and additional peanuts. Quota peanuts are peanuts (except green peanuts) which are marketed or considered marketed from a farm for domestic edible use. This includes all peanuts which are dug on a farm except for the following: (1) Green peanuts; (2) peanuts which are pledged as loan collateral at the level of price support for additional peanuts and not redeemed by the producer; and (3) peanuts which are marketed under a contract between a handler and a producer for exportation or crushing. Additional peanuts are any peanuts which are marketed from a farm other than peanuts which are marketed or considered to be marketed as quota peanuts. Section 403 of the 1949 Act provides that adjustments may be made in these support levels for differences in type, quality, location and other factors. Section 403 further provides that such adjustments shall, so far as practicable, be made in such manner that the average level of support will, on the basis of anticipated incidences of such factors, be equal to the level of support announced by the Secretary of Agriculture for the crop year involved. The regulations governing price support for peanuts are set forth at 7 CFR Part 1446.

A ton of farmers stock peanuts will normally include a proportion of high quality edible peanuts referred to as sound mature kernels (SMK) and sound splits (SS), as well as smaller quantities of lower quality loose shelled kernels (LSK), other kernels (OK) and damaged kernels (DK). Under the differentials applicable to the 1986 and preceding crop years, the value of any ton of farmers stock peanuts has been determined on the basis of the quantity and mix of these kernel values, plus a premium for extra large kernels (ELK) in the case of Virginia-type peanuts, and discounts for such factors as excess foreign material, split kernels and damaged kernels.

On February 13, 1987 the Secretary of Agriculture announced the national average support rates for quota and additional peanuts for the 1987 crop. Those rates were, respectively, $607.47 per ton and $149.75 per ton. Those rates are the same as the rates that applied to the 1986 crop.

The 1986-crop differentials were developed by setting the SMK value for Virginia-type peanuts at 2 percent higher than the SMK value for Runner-type peanuts. The Spanish-type SMK value was set at one-half percent higher than the SMK value for Runner-type peanuts. Depending on whether the peanuts are suitable for cleaning and roasting, the SMK value for Valencia-type peanuts was set to be the same as that for Spanish or Virginia-type peanuts. It is proposed that the differentials for the 1987 crop maintain the same relationship for SMK values between types. In addition, it is proposed that the other premiums and discounts remain the same for the 1987 crop.

Because of the averaging required by Section 403 of the 1949 Act, determining the actual SMK values for peanut types must take into account the expected incidence of quality variations and other factors for which premiums or discounts are allowed or made. The CCC customarily uses a five-year average from the immediately preceding five crop years for this purpose. The proposed 1987 differentials have been calculated in that manner except that for Virginia-type peanuts a five-year average covering the 1981, 1982, 1984, 1985 and 1986 crops was used. The 1983 crop was excluded from the average and replaced by the 1981 crop because of the extreme weather conditions that affected the quality of 1983-crop peanuts

in the area where Virginia-type peanuts are customarily grown.

Under the proposed 1987-crop differentials, the price support value for additional peanuts would, as in the past, be computed by a two-step process, in which the peanuts are valued as if they were quota peanuts and that value is then reduced by the factor which is equal to the ratio of the national average additional support price ($149.75-per ton) to that for quota peanuts ($607.47-per ton). That factor for the 1987 crop is the same as for the 1986 crop—.2465.

Before making a final determination with repsect to these matters, consideration will be given to any relevant data, views, recommendations or other comments which are submitted in writing within the comment period to the Director, Tobacco and Peanuts Division, ASCS–USDA, Room 5750–South Building, P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to this Notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5750–South Building.

Proposed Determination

Accordingly, CCC hereby proposes that the price support differentials for the 1987-Crop Peanut Warehouse and Farm-Stored Loan and Purchase Program shall be as follows:

(a) *Average 1987 Support Values by Type Per Average Grade Ton of Peanuts.*

	Per average grade ton
(1) *Support Value for Warehouse-Stored Loans:*	
Type:	
Virginia	$606.73
Runner	611.61
Spanish	573.26
Valencia:	
Southwest area—suitable for cleaning and roasting	606.73
Southwest area—not suitable for cleaning and roasting	573.26
Areas other than Southwest	573.26
(2) *Support Value for Farm-Stored Loans:*	
Type:	
Virginia	607
Runner	612
Spanish	573
Valencia:	
Southwest Area	607
Areas Other Than Southwest	573

(b) *Calculation of Support Prices for Quota Peanuts.* The support price per ton for 1987-crop quota peanuts of a particular type and quality shall be calculated on the basis of the following rates, premiums, and discounts (with no value assigned to damaged kernels (DKs)), except that the minimum support value for any quota lot of eligible peanuts of any type shall be 7 cents per pound of kernels in the lot:

(1) *Kernel Value Per Ton Excluding Loose Shelled Kernels (LSKs).*

(i) The price per ton for each percent of sound mature (SM) and sound split (SS) kernels shall be:

	Percent
Type:	
Virginia	$8.743
Runner	8.572
Spanish	8.615
Valencia:	
Southwest area—suitable for cleaning and roasting	8.997
Southwest area—not suitable for cleaning and roasting	8.615
Areas other than Southwest	8.615

(ii) The price per ton for each percent of other kernels shall be: All types, per percent, $1.40.

(iii) A premium of $0.35 per ton will be allowed for each percent of Extra Large Kernels (ELKs) for Virginia-type peanuts only. However, no premium for ELKs shall be allowed for any ton of such peanuts containing more than four-percent DKs.

(2) *Price of LSKas Per Pound.* The price for each pound of LSKs shall be: All types, per pound, $0.07

(3) *Foreign Material Discount.* For all types of peanuts, the discount per ton for foreign material shall be as follows:

Percent	Discount
0–4	$0
5	1.00
6	2.00
7	3.00
8	4.00
9	5.00
10	6.00
11	7.00
12	8.50
13	10.00
14	11.50
15	13.00
16 and over	(1)

[1] For each full percent in excess of 15 percent deduct an additional $2.

(4) *SS Kernel Discount.* For all types of peanuts, the discount per ton for SS kernels shall be as follows:

Percent	Discount
1 through 4	$0
5	1.00
6	1.60
7 and over	(1)

[1] For each full percent in excess of 6 percent deduct an additional $0.80.

(5) *DK Discount.*

(i) For all types of peanuts, the discount per ton for DKs shall be as follows:

Percent	Discount
1	$0
2	3.40
3	7.00
4	11.00
5	25.00
6	40.00
7	60.00
8 to 9	80.00
10 and over	100.00

(ii) Notwithstanding the above discount schedule, the DK discount for Segregation 2 peanuts transferred from additional to quota loan pools shall not exceed $25 per ton.

(6) *Price Support Adjustment for Peanuts Sampled with Other Than Pneumatic Sample.* The support price per ton for Virginia-type peanuts sampled with other than a pneumatic sampler shall be reduced by $0.10 per every percentage point of SM and SS kernels.

(7) *Mixed Type Discount.* Individual lots of farmers stock peanuts containing mixtures of two or more types in which there is less than 90 percent of any one type will be supported at a price which is $10 per ton less than the support price available to the type in the mixture having the lowerst support price.

(8) *Location Adjustments.*

(i) The price otherwise applicable to farmers stock peanuts delivered to the association for a warehouse-stored loan in order to receive price support advances in the States specified below, where peanuts are not customarily shelled or crushed, shall be discounted as follows:

State	Per ton
Arizona	$25.00
Arkansas	10.00
California	33.00
Louisiana	7.00
Mississippi	10.00
Missouri	10.00
Tennessee	25.00

(ii) The price otherwise applicable to farmers stock peanuts pledged as collateral for a farm-stored loan in order to receive price support advances in Puerto Rico and all other States, territories and possessions of the United States (excluding the States specified in Paragraph (8)(i) and Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and

Virginia), shall be discounted $40.00 per ton.

(9) *Virginia-Type Peanuts.* Virginia-type peanuts, in order to be eligible for price support as Virginia-type, must contain 40 percent or more "fancy" size peanuts, as determined by a presizer with the rollers set at 34/64 inch space. Virginia-type peanuts so detemined to contain less than 40 percent "fancy" size peanuts will be supported (but not classed) as though they were Runner-type.

(10) *Discount for Aspergillus Flavus Mold (Segregation 3 Peanuts).* There will be no discount applied to Segregation 3 peanuts for Aspergillus flavus mold when such peanuts are pledged as loan collateral at the additional loan rate. Should such peanuts later be transferred to a quota loan pool under the General Regulations Governing 1986 Through 1990-Crops Peanut Warehouse Storage Loans and Handler Operations set forth at 7 CFR Part 1446, they will be discounted at the rate of $25 per net ton from the level of price support applicable to the type of quota peanuts.

(c) *Calculation of Support Values for Additional Peanuts.* The support price per ton for 1987-crop additional peanuts of a particular type and quality shall be calculated on the basis of 24.65 percent of the same rates, premiums and discounts which are applicable to quota peanuts. This percentage was computed by dividing the national average price support loan rate per ton for 1987-crop additional peanuts by the national average price support loan rate per ton for 1987-crop quota peanuts.

Signed at Washington, DC, on April 17, 1987

Milt Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 87-8981 Filed 4-21-87; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

McKenzie Electric Cooperative, Inc., Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR Part 1500-1508), and REA Environmental Policy and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the construction of a 115 kV 53 km (33 miles) transmission line. The transmission line which will be initially operated at 69 kV will originate at the Ivan Omlid Substation located 1.6 km (1 mile) south of Watford City, North Dakota, and will tie into an existing 69 kV line at about 1.6 km (1 mile) west of the Swenson substation near Charlson, North Dakota. The line would generally run north from Watford City for about 27 km (17 miles) and then turn east for another 26 km (16 miles) and finally tie into an existing 69 kV transmission line. The project will be located in McKenzie County, North Dakota and will be built by McKenzie Electric Cooperative, Inc. (McKenzie Electric), of Watford City, North Dakota.

FOR INFORMATION CONTACT: REA's Environmental Assessment (EA) and FONSI and McKenzie Electric's Borrower's Environmental Report (BER) may be reviewed at the office of the Director, Northwest Area—Electric, Room 0205, South Agriculture Building, Rural Electrification Administration, Washington, DC. 20250, telephone no. (202) 382-1411: or at the office of McKenzie Electric Cooperative, Inc. (Wayne A. Retzlaff, Manager), P.O. Box 849, Watford City, North Dakota 58854, telephone no. (701) 842-2311, during regular business hours. Copies of the BER, EA and FONSI can be obtained from either of the contacts listed above. Any comments or questions should be directed to the REA contact.

SUPPLEMENTARY INFORMATION: REA, in conjunction with a request for construction approval from McKenzie Electric, has reviewed the BER submitted by McKenzie Electric and has determined that it represents an accurate assessment of the environmental impacts of the proposed project. The project consists of constructing a 53 km 115 kV transmission line in McKenzie County, North Dakota. REA determined that the proposed project will have no effect on floodplains, wetlands, important farmland, prime rangelands or forest lands, threatened or endangered species or critical habitat, and any property listed or eligible for listing in the **National Register of Historic Places.** No matters of potential environmental concern were identified by REA.

Alternatives examined for the proposed project included no action, energy conservation, upgrading/rebuilding the existing transmission system, alternative transmission routes, and underground construction. REA determined that the proposed construction of the 115 kV transmission line is an environmentally acceptable alternative. It will aid McKenzie Electric to maintain adequate and reliable service to its present consumers in the area and provide sufficient power to Mountrail Electric Cooperative, Inc. (Mountrail), of Stanley, North Dakota, which by contract is required to serve the future needs of the town of New Town, North Dakota. Based upon the BER, REA prepared an EA concerning the proposed project and its impacts. REA has independently evaluated the proposed project, and has concluded that project approval would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

In accordance with REA Environmental Policy and Procedures (7 CFR Part 1794), McKenzie Electric advertised and requested comments on the environmental aspects of the proposed project in the McKenzie County Farmer, a local newspaper. There were no comments.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850—Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related notice to 7 CFR 3015 Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Dated: April 15, 1987.

Harold V. Hunter,

Administrator.

[FR Doc. 87-8983 Filed 4-21-87; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Morrison Siphon Farm Irrigation RC&D Measure, Colorado

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Morrison Siphon Farm Irrigation RC&D Measure, La Plata County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State

Conservationist, Soil Conservation Service, 2490 West 26th Avenue, Denver, Colorado 80211, telephone (303) 964-0292.

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the measure will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement are not needed for this measure.

This farm irrigation measure concerns a plan to improve the irrigation system. The planned works of improvement include installing 950 lf. of concrete siphon underground, replacing the present structure.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available at the above address to fill single-copy requests. Basic data developed during the environmental evaluation are on file and may be received by contacting Mr. Sheldon G. Boone. No administrative action on implementation of the proposal will be taken until May 22, 1987

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901, Resource Conservation and Development, and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials)

Dated: April 14, 1987.

Kenneth A. Pitney,

Assistant State Conservationist.

[FR Doc. 87-8946 Filed 4-21-87; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Annual Survey of State Tax Collection
Form Number: Agency—F-5, F-5A, F-5-L1, F-5-L2; OMB-0607-0046
Type of Request: Extension of a currently approved collection
Burden: 79 respondents; 109 reporting hours
Needs and Uses: Census uses this survey to obtain tax data from state governments and the District of Columbia. The national income accounts incorporate data taken from this survey. Officials and researchers use these data in the analysis of state government finances, and in long-established Census Bureau reports.
Affected Public: State or local governments
Frequency: Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Don Arbuckle, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Office, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: April 15, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-8984 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

AGENCY: Economic Development Administration
TITLE: Evaluation of Local Technical Assistance Projects
FORM NUMBER: Agency—NA; OMB—NA
TYPE OF REQUEST: New collection
BURDEN: 135 respondents; 27 reporting hours
NEEDS AND USES: The purpose of the evaluation is to provide Federal, State, and local officials involved in designing and operating technical assistance programs with information and a set of principles which will assist them in making choices that will have a significant and positive effect on economic development.
FREQUENCY: One time.
RESPONDENT'S OBLIGATION: Voluntary
OMB DESK OFFICER: Don Arbuckle, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503,

Dated: April 15, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-9014 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-580-073]

Bicycle Tires and Tubes From Korea; Preliminary Results of Antidumping Duty Administrative Review and Tentative Determination to Revoke in Part

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review and Tentative Determination to Revoke in Part.

SUMMARY: In response to a request by an exporter the Department of Commerce has conducted an administrative review of the antidumping finding on bicycle tires and tubes from Korea. The review covers one exporter of this merchandise and the periods April 1, 1985 through March 31, 1986 and April 1, 1982 through June 30, 1983. This firm made all sales of this merchandise to the United States at not less than fair value.

As a result of the review, the Department has tentatively determined to revoke the antidumping finding with respect to Korea Inoue Kasei, Co., Ltd.

Interested parties are invited to comment on these prelminary results and tentative determination to revoke in part.

EFFECTIVE DATE: April 22, 1987

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5256.

SUPPLEMENTARY INFORMATION: On March 22, 1984, the Department of

Commerce ("the Department") published in the **Federal Register** (49 FR 10693) the final results of its last administrative review of the antidumping finding on bicyle tires and tubes from Korea (44 FR 22051, April 13, 1979). We began the current review of the finding under our old regulations. After the promulgation of our new regulations, one exporter requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published notices of initiation on May 20, 1986 (51 FR 18475) and on May 30, 1986 (51 FR 19580). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of bicycle tires and tubes, currently classified under items 772.4800 and 772.5700 of the Tariff Schedules of the United States Annotated.

The review covers one exporter of Korean bicycle tires and tubes to the United States and the periods April 1, 1985 through March 31, 1986 and April 1, 1982 through June 30, 1983.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the ex-factory price to unrelated purchasers in the United States. No deductions were claimed or allowed.

Foreign Market Value

In calculating foreign market value, the Department used the price to a third country, as defined in section 773(a)(1)(B) of the Tariff Act, since there were insufficient quantities of such or similar merchandise sold in the home market. The third-country prices were based on either delivered or f.o.b., prices to unrelated purchaser in the third country. Where appropriate, we made adjustments for ocean freight and insurance. No other adjustments were claimed or allowed.

Preliminary Results of the Review and Tentative Determination to Revoke in Part

As a result of our review, we preliminarily determine that no margins exist for the periods April 1, 1985 through March 31, 1986 and April 1, 1982 through June 30, 1983.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protection order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Korea Inoue Kasei Co., Ltd. requested revocation of the finding and, as provided for in § 353.54(e) of the Commerce Regulations, has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding under circumstances specified in the written agreement. This firm made all sales at not less than fair value for two years.

Therefore, we tentatively determine to revoke the antidumping finding on bicycle tires and tubes from Korea with respect to Korea Inoue Kasei Co., Ltd. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise exported by this firm and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Further, as provided for by § 353.48(b) of the Commerce Regulations no cash deposit of estimated antidumping duties is required for Korea Inoue Kasei Co., Ltd. For any shipments from the remaining known manufacturers and/or exporters not covered by this review, the cash deposit will continue to be at rates published in the final results of the last administrative review for each of those firms (49 FR 10693, March 22, 1984).

For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after March 31, 1986 and who is unrelated to any reviewed firm or any previously reviewed firm, no cash deposit is required. These deposit requirements are effective for all shipments of Korean bicycle tires and tubes entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)), and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Dated: April 16, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-9061 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-423-602]

Preliminary Determination of Sales at Less Than Fair Value: Industrial Phosphoric Acid From Belgium

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that industrial phosphoric acid (IPA) from Belgium is being, or is likely to be, sold in the United States at less than fair value. We also preliminarily determine that critical circumstances do not exist with respect to imports of IPA from Belgium. We have notified the U.S. International Trade Commission (ITC) of our determinations, and we have directed the U.S. Customs Service to suspend liquidation of all entries of IPA that are entered or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by June 29, 1987

EFFECTIVE DATE: April 22, 1987

FOR FURTHER INFORMATION CONTACT: Mary Martin, Jessica Wasserman, or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2830, 377-1442, or 377-0161.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that IPA from Belgium is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(b)). The estimated weighted-average margin is shown in the "Suspension of Liquidation" section of this notice. We also preliminarily determine that critical circumstances do not exist with respect to imports of IPA from Belgium.

Case History

On November 5, 1986, we received a petition filed in proper form by FMC Corporation and Monsanto Company, on behalf of the U.S. industry producing IPA. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of IPA form Belgium are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or threaten material injury to, a U.S. industry. The petition also alleged that critical circumstances exist with regard to imports of IPA from Belgium.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on November 25, 1986 (51 FR 43648, December 3, 1986), and notified the ITC of our action. On December 22, 1986, the ITC determined that there is a reasonable indication that imports of IPA from Belgium are materially injuring a U.S. industry (52 FR 612, January 7 1987).

On January 9, 1987 we presented an antidumping duty questionnaire to Societe Chimique Prayon-Rupel S.A. (SCPR) and requested a response in 30 days. SCPR accounted for virtually all exports from Belgium to the United States of IPA during the period of investigation (June 1—November 30, 1986). On January 29, 1987 at the request of respondent, we granted an extension of the due date for the questionnaire respose. On February 18, 1987 respondent requested an additional extension of the due date for the questionnaire response until February 27 1987 We received a response to the questionnaire on February 27 1987 On March 16, 1987 the Department requested supplemental information. We received supplemental responses on March 23 and 27 1987

Scope of Investigation

The product covered by this investigation is IPA provided for in item 416.30 of the *Tariff Schedules of the United States* (TSUS).

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price to the foreign market value for the company under investigation using data provided in the responses.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent United States price when the merchandise was purchased by an unrelated U.S. customer directly from the foreign manufacturer prior to importation. We calculated purchase price based on packed and unpacked c.i.f. prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. inland freight, and unloading costs.

As provided in section 772(c) of the Act, we used the exporter's sales price, where appropriate, to represent the United States prices for merchandise sold to unrelated purchasers after importation into the United States. We calculated the exporter's sales price based on the unpacked price f.o.b. or c.i.f. SCPR's leased storage tanks in Bayonne, New Jersey, or Houston, Texas. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. inland freight, U.S. inland insurance, U.S. indirect selling expenses (including the cost of leasing storage tanks, sampling and testing the merchandise, and U.S. inventory carrying costs), U.S. commissions, U.S. discount and U.S. credit expenses.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we based foreign market value for IPA on sales in the home market. When comparing foreign market value to purchase price sales, we made deductions, where appropriate, from the home market price for inland freight and prompt payment discounts. We added U.S. packing costs and commissions paid in the U.S. market where appropriate. We allowed an offset for indirect selling expenses in the home market (which includes the cost of sampling and testing the merchandise and home market inventory carrying costs) up to the amount of the commissions in the U.S. market in accordance with § 353.15(c) of the Commerce Regulations. We have made an adjustment under § 353.15 of the Commerce Regulations for differences in circumstances of sale for credit expenses in the United States and home markets.

SCPR claimed an adjustment to the home market price for certain expenses which the company claims are direct selling expenses (*i.e.*, truck loading costs, water dilution costs, preparing sales and shipping invoices, and sampling costs). We have disallowed SCPR's claim because it has not shown that the items included in the category are directly related to specific sales of IPA, as required by § 353.15 of our Regulations. We are also not allowing a claim for a difference in circumstances of sales adjustment based upon the difference in size between the U.S. and the Belgian markets. There is no basis for such an adjustment under the Commerce Regulations. We will seek additional information on these disallowed adjustments prior to our final determination.

When comparing foreign market value to U.S. exporter's sales prices, we made deductions, where appropriate, from the home market price for inland freight, credit expense, and prompt payment discounts. We allowed an offset for indirect selling expenses incurred on home market sales up to the amount of the indirect selling expenses and commissions incurred for sales in the U.S. market, in accordance with § 353.15(c) of the Commerce Regulations.

Currency Conversion

For comparisons involving purchase price transactions, when calculating foreign market value, we made currency conversions from Belgian francs to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York. For comparisons involving exporter's sales price transactions, we used the official exchange rate for the date of purchase pursuant to section 615 of the Trade and Tariff Act of 1984. We followed section 615 of the 1984 Act rather than § 353.56(a)(2) of the Commerce Regulations, as it supersedes that section of the Regulations.

Critical Circumstances

Petitioners alleged that imports of IPA from Belgium present "critical circumstances." Under section 733(e)(1) of the Act, critical circumstances exist if we determine that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether imports have been massive over a relatively short period of time, we have considered the following factors: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by the imports. Based on our analysis of import statistics, we find that there is no reasonable basis to believe or suspect that imports of IPA from Belgium have been massive over a relatively short period. Accordingly, we do not have to consider whether section 733(e)(1)(A) of the Act applies to this case. Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of IPA from Belgium. We have notified the ITC of this determination.

Verification

We will verify all information used in making our final determination in accordance with section 776(a) of the Act. We will use the standard verification procedures, including examination of relevant sales and financial records of the company under investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of IPA from Belgium that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Estimated weighted-average margin percentage
Societe Chimique Prayon-Rupel	16.40
All Others	16.40

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after the date of this determination or 45 days after the final determination.

Public Comment

In accordance with § 353.47 of the Commerce Regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on May 27 1987 at the U.S. Department of Commerce, Room 1414, 14th and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by May 20, 1987 Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, not less than 30 days before the final determination, or, if a hearing is held, within seven days after the hearing transcript is available, at the above address in at least ten copies.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 14, 1987.

[FR Doc. 87-8986 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-017]

Antidumping Duty Administrative Review; Pads for Woodwind Instrument Keys From Italy

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results and Termination of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the petitioner, the Department of Commerce has conducted an administrative review of the antidumping duty order on pads for woodwind instrument keys from Italy. The review covers the one known manufacturer and/or exporter of pads for woodwind instrument keys to the United States currently covered by the order, and the period April 25, 1984 through August 31, 1985. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value, as established in the final determination of sales at less than fair value, published in the Federal Register on July 11, 1984 (49 FR 28295). Interested parties are invited to comment on these preliminary results.

Due to the partial revocation of this antidumpting duty order, the administrative review of the period September 1, 1985 through August 31, 1986 is terminated.

EFFECTIVE DATE: April 22, 1987

FOR FURTHER INFORMATION CONTACT: Laura Merchant or David Mueller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC. 20230; telephone: (202) 377-5253.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1984, the Department of Commerce ("the Department") published in the Federal Register (49 FR 37137) an antidumping duty order on pads for woodwind instrument keys from Italy. On May 23, 1986, the petitioner requested, in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review for the period April 25, 1984 through August 31, 1985. We published a notice of initiation of the administrative review on July 9, 1985 (51 FR 24884). The review as initiated covered the two known manufacturers/exporters of this merchandise to the United States covered by the order at that time.

On August 18, 1986, the petitioner requested, in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review for the period

September 1, 1985 through August 31, 1986, for one of the manufacturers/exporters covered by the order at that time, Luciano Pisoni Fabbrica Assessori Instrumenti Musicali ("Pisoni"). We published a notice of initiation of that administrative review on September 8, 1986 (51 FR 31961).

At the time at which the two reviews described above were initiated, the Department's 1984 antidumping order was the subject of litigation. On June 12, 1986, the United States Court of International Trade found that the Department had erred in certain respects and remanded the final determination for a redetermination on those pads manufactured or exported by Pisoni. As a result of those remand proceedings, the Department found that pads for woodwind instrument keys from Italy, manufactured or exported by Pisoni, are not being, nor are likely to be, sold in the United States at less than fair value. On September 15, 1986, the Court affirmed the Department's redetermination on remand. On November 5, 1986, the Department published in the **Federal Register** (51 FR 40239) a partial revocation of the antidumping duty order on pads with regard to merchandise produced or exported by Pisoni.

As a consequence of this revocation with respect to Pisoni we have limited the review initiated on July 9, 1986 to the remaining manufacturer/exporter covered by the order, Pads Manufacture, s.r.l., and we have terminated the review which was initiated on September 8, 1986.

Scope of the Review

Imports covered by the review are shipments of pads for woodwind instrument keys from Italy currently classifiable under item 726.7000 of the Tariff Schedules of the United States Annotated. The review covers one manufacturer/exporter of pads, Pads Manufacture s.r.l., and the period April 25, 1984 through August 31, 1985.

Preliminary Results of the Review

We were successful in our attempt to contact Pads Manufacture, s.r.l. concerning this review, and we have received sufficient evidence to conclude that Pads Manufacture is no longer in operation. The assessment rate for the period and the cash deposit rate for Pads Manufacture, s.r.l. will be the most recent rate for the firm, which was established in our final determination of sales at less than fair value published in the **Federal Register** on July 11, 1984 (49 FR 28295).

As the result of this review, we preliminarily determine that the following margin exists:

Manufacturer/exporter	Time period	Margin (percent)
Pads Manufacture, s.r.l.	4/25/84–8/31/85.	1.03

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request a hearing within 5 days of the publication. Any hearing, if requested, will be held 30 days after the date of publication, or the first workday thereafter. The Department will publish the final results of the administrative review including the resuts of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions for Pads Manufacture directly to the Customs Service.

As provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin shall be required for Pads Manufacture.

For any future entries of this merchandise from a new exporter not covered in this administrative review, whose first shipments occurred after August 31, 1985, and who is unrelated to Pads Manufacture or Pisoni, a cash deposit of 1.03 percent shall be required. These deposit requirements are effective for all shipments of pads for woodwind instrument keys entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and §353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556 August 13, 1985).

Dated: April 11, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-9064 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-081]

Polyvinyl Chloride Sheet and Film From Taiwan; Preliminary Results of Antidumping Duty Administrative Review and Intent To Revoke in Part

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review and Intent to Revoke in Part.

SUMMARY: In response to requests by the petitioner and ten respondents, the Department of Commerce has conducted an administrative review of the antidumping finding on polyvinyl chloride sheet and film from Taiwan. The review covers eight exporters of this merchandise to the United States and generally consecutive periods from June 1, 1983 through May 31, 1986. The review indicates the existence of dumping margins for one of the firms. When inadequate information was received in response to our questionnaire, we used the best information available for assessment and estimated antidumping duties cash deposit purposes.

The Department intends to revoke the antidumping finding with respect to Taiwanese polyvinyl chloride sheet and film exported by Fashion Plastics Fabrication Co., Everlush Industrial Co., Ltd., Eclat International, Elanvital International, S.M. & Roger Co., and Wondertex Ind. Co.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 22, 1987

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/5255.

SUPPLEMENTARY INFORMATION:

Background

On September 20, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 36897) a tentative determination to revoke in part the antidumping finding on polyvinyl chloride sheet and film from Taiwan (43 FR 28457 June 30, 1978). On December 18, 1984, the Department published in the **Federal Register** (49 FR 49128) the final results of its last administrative review of the antidumping finding. We began this review of the finding under our old regulations. After the promulgation of our new regulations, the petitioner and ten respondents

requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published a notice of initiation on May 30, 1986 (51 FR 19580), July 17 1986 (51 FR 25923), and October 3, 1986 (51 FR 35382). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of unsupported, flexible, calendered polyvinyl chloride ("PVC") sheet, film and strips, over 6 inches in width and over 18 inches in length, and at least 0.0002 inch but not over 0.020 inch in thickness, currently classifiable under items 771.4312 and 774.5595 of the Tariff Schedules of the United States Annotated.

The review covers eight exporters of Taiwanese PVC to the United States from whom a review was requested and generally consecutive periods from June 1, 1983 through May 31, 1986. Orchard Corporation provided an inadequate response to the Department's questionnaire. For that firm the Department used the best information available. The best information available is that firm's rate from the last review. The Department will not cover Hop Kee Hong (Hong Kong) and Lumay Products Corporation in this review or future section 751 reviews because they do not export merchandise covered by the finding to the United States. This is not a proposal to revoke the finding with respect to these two firms. Should these firms begin exporting the covered merchandise to the United States, we shall treat them as new exporters.

The Department will not cover K.E. Kingstone and Taiwan Eva in this or future section 751 reviews because they only shipped Taiwanese PVC manufactured by Ocean Plastics Co., Ltd. Ocean Plastics was excluded from the finding (43 FR 4810, June 30, 1978). The exclusion of these two firms from the finding pertains only to shipments manufactured by Ocean Plastics. Should these firms begin exporting the covered merchandise manufactured by another firm, we shall treat them as new exporters.

Preliminary Results oo the Review and Intent to Revoke in Part

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer/ exporter	Time period	Margin (percent)
Fashion Plastics Fabrication.	06/01/83-09/ 20/84.	[1] 5.90
Union Industries Ltd.	06/01/83-05/ 31/84, 06/ 01/84-05/ 31/85.	[1] 11.37, [1] 11.37
Orchard Corporation.	06/01/85-05/ 31/86.	12.04

[1] No shipments during the period.

Fashion Plastics Fabrication Co. requested partial revocation of the finding. That firm has not exported Taiwanese polyvinyl chloride sheet and film to the United States since December 1978. As provided for in § 353.54(e) of the Commerce Regulations, Fashion Plastics has agreed in writing to an immediate suspension of liquidation and reinstatement in the finding if circumstances develop which indicate that Taiwanese polyvinyl chloride sheet and film imported into the United States is being sold by that firm at less than fair value.

As a result of our review, we intend to revoke the finding on PVC sheet and film from Taiwan with respect to Fashion Plastics Fabrication Co. This firm has not exported to the United States since December 1978, a period of over five years. If the finding is revoked, it will apply to all unliquidated entries of this merchandise exported by Fashion Plastics Fabrication Co. and entered, or withdrawn from warehouse, for consumption on or after September 20, 1984.

The Department also intends to revoke the finding with respect to Everlush Industrial Co., Ltd., Eclat International, Elanvital International, S.M. & Roger Co., and Wondertex Ind. Co. These five firms previously only shipped Taiwanese PVC manufactured by Cathay Plastics Industry. We revoked the finding with respect to Cathay (49 FR 7841, March 1, 1984). The revocation of these five firms from the finding pertains only to shipments manufactured by Cathay.

Should these firms begin exporting Taiwanese polyvinyl chloride sheet and film to the United States manufactured by another firm, we shall treat them as new exporters.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 5 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For any shipments from the remaining known manufacturers/exporters not covered by this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review for each of those firms (49 FR 49128, December 18, 1984). For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after May 31, 1986 and who is unrelated to any reviewed firm any other previously reviewed firm, a cash deposit of 12.04 percent shall be required. These deposit requirements are effective for all shipments of Taiwanese polyvinyl chloride sheet and film entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review, intent to revoke in part and notice are in accordance with section 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1) and (c)) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54).

Dated: April 16, 1987

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-9062 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-085]

Sugar and Syrups From Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests by a respondent, the Department of Commerce has conducted an administrative review of the antidumping order on sugar and syrups from Canada. The review covers one manufacturer/exporter of this merchandise to the United States and the period from April 1, 1985 through March 31, 1986. The review indicates the existence of no dumping margins for the firm during the period.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 22, 1987

FOR FURTHER INFORMATION CONTACT: J. David Dirstine or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601/5255.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 1987 the Department published in the **Federal Register** (52 FR 9322) the final results of its last administrative review of the antidumping order on sugar and syrups from Canada. After the promulgation of our new regulations, respondents requested in accordance with §353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published the notice of initiation on May 20, 1986 (51 FR 18475). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Canadian sugar and syrups produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar. Sugar and syrups are currently classifiable under items 155.2025, 155.2045, and 155.3000 of the Tariff Schedules of the United States Annotated.

The review covers one manufacturer/exporter of Canadian sugar and syrups and the period April 1, 1985 through March 31, 1986.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to importation. Purchase price was based on the packed, delivered or f.o.b. duty-paid plant price to unrelated purchasers in the United States. Where applicable, we made adjustments for U.S. duty, brokerage, and U.S. and Canadian inland freight. Where applicable, we added Canadian duties paid at the time of importation into Canada of the raw material used to produce the sugar and syrups because these duties were rebated when the sugar and syrups were exported to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in section 773 of the Tariff Act since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison. Home market price was based on the packed, f.o.b. or delivered price with adjustments, where applicable, for inland freight, and indirect selling expenses to offset commissions to unrelated parties on U.S. sales. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparision of United States price to foreign market value, we preliminarily determine that no dumping margins exist for Lantic Sugar, Ltd. for the period April 1, 1985 through March 31, 1986.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or hearing within 5 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication of the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Further, as provided by section 751(a)(1) of the Tariff Act, since there was no margin, the Department shall not require a cash deposit of estimated dumping duties for Lantic Sugar, Ltd. For any future shipments form the remaining known manufacturers and/or exporters not covered in this review, a cash deposit shall be required at the rates published in the final results of the last administrative review for each of those firms.

For any future entries of this merchandise from a new exporter, whose first shipments occurred after March 31, 1986 and who is unrelated to any reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Canadian sugar and syrups entered, or withdrawn from warelhouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with sections 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and §§ 353.53a of the Commerce Regulations (19 CFR 353.53a)

Dated: April 16, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-9063 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DS-M

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: April 22, 1987

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard W. Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews. The Department has received timely requests, in accordance with §§ 353.53a(a)(1), (a)(2), (a)(3), and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews

of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than April 30, 1988.

Antidumping duty proceedings and firms	Periods to be reviewed
Iron Construction Castings from Canada:	
Fondene Grandmere	10/21/85-02/28/87
Fondene Laroche	10/21/85-02/28/87
La Perle Foundry	10/21/85-02/28/87
Mueller Canada	10/21/85-02/28/87
Sodium Nitrate from Chile:	
SQM	03/01/86-02/28/87
Viscose Rayon Staple Fiber from Finland:	
Kemira Oy Sateri	03/01/86-02/28/87
Certain Brass Fire Protection Products from Italy:	
Giacomini	03/01/86-02/28/87
Giacomini/Ganbrook (Switzerland)	03/01/86-02/28/87
Circular Welded Pipes and Tubes from Thailand:	
First Steel Industry	09/26/85-02/28/87
Saha Thai Steel Pipe	09/26/85-02/28/87
Siam Steel Pipe	09/26/85-02/28/87
Thai Steel Pipe	09/26/85-02/28/87
Thai Union Steel Pipe	09/26/85-02/28/87

Countervailing duty proceedings	Periods to be reviewed
Certain Apparel from Argentina	01/01/86-12/31/86
In-Shell Pistachios from Iran	12/30/85-12/31/86
Certain Iron—Metal Construction Castings from Mexico	01/01/86-12/31-86
Textile Mill Products from Mexico	01/01/86-12/31/86
Certain Textile Mill Products and Apparel from Sri Lanka	01/01/86-12/31/86
Certain Welded Carbon Steel Pipe & Tube from Turkey	10/21/85-12/31/86

We also received requests to review four Japanese television manufacturers but, due to injunctive orders issued by the Court of International Trade, we are deferring initiation of those reviews until the injunctive orders may be dissolved.

Interested parties are encouraged to submit applications for administrative protective orders as early as possible in the review process.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c)).

Dated: April 9, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-8985 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DS-M

Final Results of Countervailing Duty Administrative Review In Accordance With Decision Upon Remand

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of amendment of final results of countervailing duty administrative review in accordance with decision upon remand.

SUMMARY: The CIT has upheld remand results submitted by the Department on August 15, 1986. The remand involved the final results of an administrative review of the countervailing duty order on pig iron from Brazil, covering the period January 1, 1981 through December 31, 1981.

As a result of the remand decision, the Department has determined the net subsidy to be 24.23 percent *ad valorem* for one firm, Cimetal, and 7.01 percent *ad valorem* for all other firms.

EFFECTIVE DATE: April 22, 1987

FOR FURTHER INFORMATION CONTACT: John D. Miller or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 16, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 9923) the final results of its administrative review of the countervailing duty order on pig iron from Brazil. The review covered the period January 1, 1981 through December 31, 1981. The results of that review were challenged in the Court of International Trade ("CIT") by an importer, Philipp Brothers, Inc. Pursuant to an injunction issued on April 19, 1984, the Department instructed the U.S. Customs Service, on April 23, 1984, to continue suspension of liquidation of entries of the subject merchandise imported by Philipp Brothers during the review period. On February 14, 1986, the CIT in *Philipp Brothers, Inc.* v. *United States*, Slip Op. 86-16, 10 CIT ____, 630 F Supp. 1317 (1986) remanded to the Department two aspects of the review. On August 15, 1986, we submitted the final results of the remand to the CIT. The remand results were upheld in Slip Op. 86-107 11 CIT ____, (October 23, 1986).

Remand Results

Pursuant to the remand in *Philipp Brothers*, the Department was required to explain the use of country-wide rates for assessment purposes. We explained that, at the time the review was conducted, there was no statutory provision concerning whether or when the Department should assess countervailing duties on a country-wide or company-specific basis.

While the language of paragraph (2) of section 751(a) of the Tariff Act of 1930 ("the Tariff Act") makes clear that the Department is to assess antidumping duties on an entry-by-entry basis, there is no parallel provision for the assessment of countervailing duties. Instead, the langauge of section 751(a)(1) simply calls for the determination of "any net subsidy." The Department's consistent and long-standing practice has been to assess countervailing duties on a country-wide basis in administrative reviews. After considering the 1984 amendments to section 706(a)(2) of the Tariff Act (establishing a presumption of country-wide rates except if the Department determines that significant differentials exist between companies receiving benefits) and § 355.22(d)(3) of the Department's proposed regulations (which would clarify the basis for company-specific countervailing duty rates in administrative reviews) (50 FR 24207 June 10, 1985), we found, in accordance with the CIT's instructions, that there was a "significant differential" in the receipt of subsidies by one producer, Cimetal. We found a company-specific rate for Cimetal of 24.23 percent *ad valorem* and a country-wide rate for all other firms of 7.01 percent *ad valorem*. Plaintiff did not challenge this result.

Also pursuant to the remand, the Department was required to explain to the CIT whether it had treated a lag in the collection of an offset tax to the Industrial Products Tax ("IPI") export credit premium as a separate countervailable subsidy, or whether it had simply adjusted the offset tax allowed under section 771(6)(C) of the Tariff Act because of the delay in collection. If the latter, the CIT instructed the Department to address the arguments raised by plaintiff concerning its methodology.

We explained that the lag in collection of the offset tax was not treated as a separate countervailable subsidy. In order to take into account the benefit received from the IPI export credit premium resulting from the delay in collection of the offset tax, we calculated the benefit from the IPI credit and the obligation for the payment of the offset tax based on the date of shipment, rather than the date on which the IPI credit was received by the exporter.

Plaintiff argued that this methodology lacked "symmetry," alleging that it utilized both accrual and cash-based analysis. However, the CIT upheld the Department's methodology as reasonable both in fact and in law. This

methodology takes into account the fact that, while we could not always determine the date on which the applicant actually received the IPI credit, we could verify the date on which the exporter became entitled to receive the benefit and the date on which the obligation for payment of the offset tax was imposed. As the record demonstrated, the Government of Brazil agreed to offset the subsidy completely. We determined that payment was late beginning 45 days after the end of the relevant month, and noncollection of the offset tax by that date resulted in a failure of the Government of Brazil to offset completely the benefit from the IPI credit.

As a result of the remand decision, the final results of the administrative review of the countervailing duty order on pig iron from Brazil, covering the period January 1, 1981 through December 31, 1981, are amended to incorporate the reasoning and calculations set forth above. Accordingly, the net subsidy during the period of review is 24.23 percent *ad valorem* for Cimetal and 7.01 percent *ad valorem* for all other firms. The Department will instruct the Customs Service to assess countervailing duties of 24.23 percent for Cimetal, and 7.01 percent for all other firms, of the f.o.b. invoice price on all entries of the subject merchandise, imported by Philipp Brothers and exported on or after January 1, 1981 and on or before December 31, 1981.

This notice does not affect the deposit rate currently required on all entries of pig iron from Brazil of 4.65 percent *ad valorem*.

Dated: April 16, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-9065 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-333-001]

Cotton Sheeting and Sateen From Peru; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on cotton sheeting and sateen from Peru. The review covers the period January 1, 1984 through December 31, 1984 and three programs.

As a result of the review, the Department has preliminarily determined the bounty or grant to be 0.31 percent *ad valorem* for the period of review, a rate we consider to be *de minimis*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 22, 1987

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 5, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 43948) the final results of its last administrative review of the countervailing duty order on cotton sheeting and sateen from Peru (48 FR 4501, February 1, 1983). The Government of Peru requested an administrative review of the order in accordance with § 355.10 of the Commerce Regulations. We published the initiation on May 30, 1986 (51 FR 19580). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Peruvian cotton sheeting and sateen consisting of: (1) Plain woven cotton fabric sheeting, not fancy or figured and not napped, made of singles yarn with an average yarn number between 3 and 26, imported in Textile and Apparel Category 313, currently classifiable under items 320.—34 and 320.—77 of the Tariff Schedules of the United States annotated ("TSUSA"); and (2) 100 percent carded cotton sateen fabrics woven with a satin weave and not napped, imported in Textile and Apparel Category 317 currently classifiable under TSUSA items 320.—50, 320.—93, 321.—50, and 321.—93.

The review covers the period January 1, 1984 through December 31, 1984 and three programs.

Analysis of Programs

(1) The Export Law

The aim of the law for the Promotion of Exports of Nontraditional Goods ("the Export Law") is to improve Peru's foreign trade structure by promoting nontraditional exports.

Articles 8 and 9 of the Export Law permit firms that decentralize their businesses within the country or that export nontraditional goods to invest or reinvest a larger portion of their income, free of income tax, than is permitted other firms. Three exporters used the nontraditional export provision of these articles during the period of review. To calculate the benefit, we divided each exporter's additional tax credit by its total exports and multiplied the result by its percentage of total exports of cotton sheeting and sateen to the United States during the review period. We preliminarily determine the benefit from Articles 8 and 9 to be 0.06 percent *ad valorem*.

Article 12 of the Export law permits each manufacturer and/or exporter to use accelerated depreciation. Two exporters used this article during the period of review. To calculate the benefit, we divided each exporter's tax savings (the difference between what the company paid and what it would have paid absent the accelerated depreciation) by its total sales of all products and multiplied the result by its percentage of total exports of cotton sheeting and sateen to the United States during the review period. We used total sales of all products as the denominator because firms are able to claim accelerated depreciation on equipment used for both domestic and export sales. We preliminarily determine the benefit from Article 12 to be 0.04 percent *ad valorem*.

Article 14 of the Export Law grants each manufacturer and/or exporter a tax deduction for each permanent job created. One exporter used this article during the period of review. To calculate the benefit, we divided the difference in the exporter's taxes before and after the deduction by its total sales of all products and multiplied the result by its percentage of total exports of cotton sheeting and sateen to the United States during the review period. We used total sales of all products as the denominator because the job created can be in either domestic or export production. We preliminarily determine the benefit from Article 14 to be 0.01 percent *ad valorem*.

Article 16 of the Export Law permits exporters to suspend payment of import duties on capital goods used to manufacture merchandise for export. The suspension of duties is contingent upon meeting yearly export targets set in the Export Law. If exporters achieve all targets within a maximum of five years, they are eligible for full exemption from payment of duties. The exemption takes effect in the year that the export targets are reached. If

exporters fail to meet the export targets, they must pay the duties with penalties. Four exporters used Article 16 during the period of review, including one that fulfilled the requirements for exemption from payment of duties.

We consider these import duty suspensions to be equivalent to one-year interest-free loans because there is uncertainty from year to year whether the duties will be paid or exempted from payment. If an exemption occurs, we expense the full amount of the exemption in the year of receipt. We calculated the benefit from the suspensions, or "loans" outstanding during the review period using a 1983 commercial benchmark because we assume that the interest paid in 1984 was based on a loan rolled over in 1983. We used as a benchmark the effective annual interest rate for short-term promissory notes. We allocated each exporter's benefit over its total exports for the review period. For the exporter that obtained the exemption, we allocated the full amount of the exemption plus the interest benefit (for the import duty suspension during the portion of the review period before the actual exemption occurred) over that firm's total exports. We then weight-averaged each exporter's benefit by its share of the total exports of cotton sheeting and sateen to the United States. We preliminarily determine the benefit from Article 16 to be 0.20 percent *ad valorem*. Because two exporters imported in 1984 additional equipment on which import duties were suspended, we preliminarily determine the benefit, for purposes of cash deposit of estimated countervailing duties, to be 0.60 percent *ad valorem*.

(2) Other Programs

We examined the following programs and preliminarily determine that exporters of cotton sheeting and sateen did not use them during the period of review.

(A) Certificate of Tax Rebate ("CERTEX"); and

(B) Nontraditional Export Fund ("FENT").

Preliminary Results of Review

As a result of the review, we preliminarily determine the total bounty or grant to be 0.31 percent *ad valorem* for the period of review. The Department considers any rate less than 0.50 percent to be *de minimis*.

The Department therefore intends to instruct the Customs Service to assess no countervailing duties for shipments of this merchandise exported on or after January 1, 1984 and on or before December 31, 1984.

Further, because of the additional import duty exemptions obtained under Article 16 in 1984, the Department intends to instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 0.71 percent of the f.o.b. invoice price on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 335.10 of the Commerce Regulations (19 CFR 355.10).

Dated: April 16, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-9066 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-333-002]

Cotton Yarn From Peru; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on cotton yarn from Peru. The review covers the period January 1, 1984 through December 31, 1984, and three programs.

As a result of the review, the Department has preliminary determined the bounty or grant to be 2.39 percent *ad valorem* for 1984. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 22, 1987

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 44324) the final results of its last administrative review of the countervailing duty order on cotton yarn from Peru (48 FR 4508, February 1, 1983). The Government of Peru requested an administrative review of the order in accordance with § 355.10 of the Commerce Regulations. We published the initiation on May 30, 1986 (51 FR 19580). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of various Peruvian cotton yarns currently classifiable under the following item numbers of the Tariff Schedules of the United States: 300.60, 301.01 through 301.60, 301.70, 301.80, 301.82, 301.84, 301.86, 301.88, 301.92, 301.94, 301.96, 301.98, 301.01 through 302.60, 302.70, 302.80, 302.82, 302.84, 302.86, 302.88, 302.92, 302.94, 302.96, and 302.98.

The review covers the period January 1, 1984 through December 31, 1984 and three programs.

Analysis of Programs

(1) The Export Law

The aim of the Law for the Promotion of Exports of Nontraditional Goods ("the Export Law") is to improve Peru's foreign trade structure by promoting nontraditional exports.

Articles 8 and 9 of the Export Law permit firms that decentralize their businesses within the country or that export nontraditional goods to invest or reinvest a larger portion of their income, free of income tax, than is permitted other firms. One exporter used the decentralization provision of these articles during the period of review. To calculate the benefit, we divided the exporter's tax credit by its total sales of all products and multiplied the result by its percentage of total exports of cotton yarn to the United States during the

review period. We used total sales of all products as the denominator because firms qualified for benefits under the decentralization provision rather than under the nontraditional export provision. We preliminarily determine the benefit from Articles 8 and 9 to be 0.09 percent *ad valorem*.

Article 16 of the Export Law permits exporters to suspend payment of import duties on capital goods used to manufacture merchandise for export. The suspension of duties is contingent upon meeting yearly export targets set in the Export Law. If exporters achieve all targets within a maximum of five years, they are eligible for full exemption from payment of duties. The exemption takes effect in the year that the export targets are reached. If exporters fail to meet the export targets, they must pay the duties with penalties. Four exporters used Article 16 during the period of review, including one that fulfilled the requirements for exemption from payment of duties.

We consider these import duty suspensions to be equivalent to one-year interest-free loans because there is uncertainty from year to year whether the duties will be paid or exempted from payment. If an exemption occurs, we expense the full amount of the exemption in the year of receipt. We calculated the benefit from the suspensions, or "loans," outstanding during the review period using a 1983 commercial benchmark because we assume that the interest paid in 1984 was based on a loan rolled over in 1983. We used as a benchmark the effective annual interest rate for short-term promissory notes. We allocated each exporter's benefit over its total exports for the review period. For the exporter that obtained the exemption, we allocated the full amount of the exemption, plus the interest benefit (for the import duty suspension during the portion of the review period before the actual exemption occurred) over that firm's total exports. We then weight-averaged each exporter's benefit by its share of the total exports of cotton yarn to the United States during the review period. We preliminarily determine the benefit from Article 16 to be 2.30 percent *ad valorem*. Because the benefit from the import duty exemption does not continue beyond 1984, we preliminarily determine the benefit, for purposes of cash deposit of estimated countervailing duties, to be 0.91 percent *ad valorem*.

(2) Other Programs

We examined the following programs and preliminarily determine that exporters of cotton yarn did not use them during the period of review:

(A) Certificates of Tax Rebate ("CERTEX"); and

(B) Nontraditional Export Fund ("FENT").

Preliminary Results of Review

As a result of the review, we preliminarily determine the total bounty or grant to be 2.39 percent *ad valorem* for the period of review. The Department intends to instruct the Customs Service to assess countervailing duties of 2.39 percent of the f.o.b. invoice price on any shipments of this merchandise exported on or after January 1, 1984 and on or before December 31, 1984.

Further, because the benefit from the import duties exonerated under Article 16 does not continue beyond 1984, the Department intends to instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 1.00 percent of the f.o.b. invoice price on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: April 16, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-9067 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-301-401]

Final Affirmative Countervailing Duty Determinations; Certain Textile Mill Products and Apparel From Colombia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Colombia of certain textile mill products and apparel as described in the "Scope of Investigations" section of this notice. The estimated net bounty or grant is determined to be 13.34 percent *ad valorem* for certain textile mill products and 16.33 percent *ad valorem* for apparel. The Department of Commerce and Colombian manufacturers and exporters of certain textile mill products and apparel have entered into a suspension agreement. However, we continued the investigations at the request of petitioners. The suspension agreement will remain in force and we shall not issue countervailing duty orders.

EFFECTIVE DATE: April 22, 1987

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles, Office of Investigations, or Steve Nyschot, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; Telephone: (202) 377-3174 or (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigations, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Colombia of certain textile mill products and apparel. For purpose of this investigation, the following programs are found to confer bounties or grants:

Tax Reimbursement on Exports under law 636 of 1984.

Export Financing through the Export Promotion Fund.

We estimate the net bounty to be 13.34 percent *ad valorem* for certain textile mill products and 16.33 percent *ad volorem* for apparel.

Case History

On July 20, 1984, we received a petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industries producing certain textiles and textile products. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Colombia of textiles and textile products receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations and, on August 13, 1984, we initiated such investigations (49 FR 32892 August 17, 1984). These investigations were initiated by the Department under the title "Certain Textiles and Textile Products from Colombia." Because of the number of products covered, and the differences in those products, the Department determined that it should conduct separate investigations—one of textiles and non-apparel textile products, and one of apparel. Because of the potential for confusion, as apparel can also be considered a textile product, we changed the titles of our investigations to "Certain Textile Mill Products and Apparel from Colombia." The scope of these investigations remains the same as announced in the initiation and the preliminary determinations. We stated that we expected to issue preliminary determinations by October 16, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 20, 1984 (49 FR 40198 October 15, 1984).

Since Colombia is not a "country under the Agreement" within the meaning of section 701(b) of the Act and the merchandise being investigated is dutiable, sections 303(a)(1) and (b) of the Act apply to the investigations. Accordingly, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten material injury to a U.S. industry.

Due to the scope of these investigations, we employed a two-step questionnaire process. We presented a preliminary questionnaire to the Government of Colombia in Washington, DC, on August 24, 1984. Based on the responses to the preliminary questionnaire, we selected four textile producers and exporters and three apparel producers and exporters, who account for at least 60 percent of the value of textile mill products and apparel exported to the United States from Colombia. On October 23, 1984, we presented a supplemental questionnaire to the Government of Colombia in Washington, DC requesting responses from these selected companies. We received responses to our supplemental questionnaire on December 4, 1984. One textile producer, Polymer S.A. did not respond to our questionnaire. Although the response to the preliminary questionnaire states that Polymer receives certain export benefits, counsel for respondents informed us that Polymer does not, in fact, export any products under investigation. Therefore, Polymer is not subject to this investigation.

One company, Creaciones Inesita, requested exclusion from these investigations on the grounds that it does not export any textile mill products or apparel. By the terms of section 355.38 of our regulations, Inesita could not be excluded because it does not produce or export "merchandise subject to the investigation," (*i.e.*, certain textile mill products and apparel that are exported to the United States). Also, it is the Department's policy not to exclude a firm that has never exported, since the Department has no past records which it can use to assess whether the firm, when it begins to export, will apply for and receive export benefits. In this case, all of the firms investigated received export benefits, such as the program providing for tax reimbursement on exports and for export financing through the Export Promotion Fund. Every Colombian firm is entitled by law to these benefits and, arguably, Inesita would need to receive these benefits in order to compete effectively against other Colombian exporters.

On December 20, 1984, we issued our preliminary determinations in these investigations (49 FR 50753, December 31, 1984). We preliminarily determined that benefits constituting bounties or grants within the meaning of the Act were being provided to manufacturers, producers, or exporters in Colombia of the subject merchandise.

We conducted a verification of the responses of the Government of Colombia and the textile and apparel companies between January 29 and February 8, 1985. Petitioners and respondents waived the opportunity to participate in a public hearing. However, we did receive their written comments regarding our investigations in briefs received on February 1 and February 25, 1985. On March 5, we received their written comments on our verification. We have addressed these comments in the "Comments" section of this notice.

Certain respondents in these investigations have raised issues as to whether petitioners have standing to file these cases. Petitioners have also made comments regarding our methodology in selecting companies to receive detailed questionnaires and our investigation of only those companies that account for 60 percent of exports of the subject merchandise to the United States. We have addressed these issues in our final determination in *Certain Textile Mill Products and Apparel from Malaysia*, (50 FR 9852, March 12, 1985). See that notice for our comments on those issues.

On March 5, 1985, the Department of Commerce and a representative of the Colombian producers and exporters who account for at least 85 percent of exports of certain textile mill products and apparel to the United States subject to these investigations signed a suspension agreement, as provided for under section 704 of the Act (50 FR 9863, March 12, 1985). Under the agreement, these Colombian manufacturers and exporters voluntarily rennounced the receipt of all the benefits described below as bounties or grants.

On March 18, 1985, the petitioners requested that these investigations be continued under section 704(g) of the Act. Therefore, we are required to issue final determinations in these investigations.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel, which are described in Appendix A, attached to this notice.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the instant investigations. These principles are described in the "Subsides Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984 issue of the Federal Register (49 FR 18006).

For purposes of these determinations, the period for which we are measuring

bounties or grants ("the review period") is calendar year 1983.

Based upon our analysis of the petition, the responses to our questionnaires, our verification, and oral and written comments by interested parties, we determine the following:

Programs Determined to Confer Bounties or Grants

I. We determine that bounties or grants are being provided to manufacturers, producers, or exporters in Colombia of certain textile mill products and apparel under the following programs:

A. Tax Reimbursement on Exports Under Law 636 of 1984

The Government of Colombia provides payments to exporters of textiles and apparel in the form of negotiable tax certificates ("CATS") that may be used for the payment of various taxes or sold on the stock exchange at a discount. Rebates are calculated as a percentage of the value of the exported product attributable to the domestic value-added and imported inputs on which duties have been paid. The Government of Colombia contends that the CAT is not a bounty or grant because it represents a non-excessive rebate of indirect taxes.

Traditionally, we have applied a three-prong test to determine whether the rebate of cumulative, prior-stage indirect taxes borne by inputs that are physically incorporated into a final product provides a benefit. Where an indirect tax rebate system incorporates rebates on import duties, or where there is a fixed duty drawback system instead of an individual duty drawback system, we have determined that we must apply a linkage analysis similar to our test for rebate systems that are designed exclusively to rebate indirect taxes. This linkage analysis involves determining whether the system is intended to operate as a drawback system; the government properly ascertained the level of the fixed drawback; and whether the schedules are revised periodically so that the drawback amounts reflect the amount of duty paid. Where these conditions are met, the Department will consider a system that rebates indirect taxes and import duties, or a fixed duty drawback system, not to provide a benfit when the amount rebated on physically incorporated inputs equals (or is less than) the fixed amount set in the rebate schedule for the exported product. (*See:* "Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: (Certain Apparel from Thailand," (50 FR 9819, March 4, 1985)).

With respect to the first prong of the test, we determine that, for textiles and apparel, the CAT program operates for the purpose of rebating import duties and indirect taxes. The taxes and duties rebated under the CAT program include those on inputs that are physically incorpated into the final product. From the documents submitted by the Colombian Government itemizing the taxes and duties eligible for inclusion in the CAT rebate on textiles and apparel, we conclude that a significant portion of the CAT rebate applies to import duties and indirect taxes on inputs physically incorpated in the exported products.

To satisfy our second test, the questionnaire response of the Government of Colombia states that each of the major product categories of textiles and textile products was analyzed in a 1978 tax incidence study. Cost structures were established on a firm-by-firm basis for the largest firms and the major categories of products. The average tax incidence on each input was calculated determine the average value of taxes and import duties in the f.o.b. value of the final product. We determine that this procedure constitutes a reasonable method of calculating a fixed duty drawback.

With respect to our third test, we determine that because the rate of indirect taxes and import duties on inputs physically incorporated into the exported product is less than the full rate of CAT rebate, there is an excessive remission of indirect taxes and import duties on exported goods. We reviewed the documents submitted by the government in its questionnaire response and at verification showing its detailed calculation of the rebate rates. The calculations separate the inputs for each product and list import duties and domestic indirect taxes, as well as indirect taxes embedded in domestically-produced inputs. The government also includes in its calculation of the CAT rebate rate certain direct taxes.

On April 1, 1984, the Government of Colombia abolished the CAT program and replaced it with a new tax reimbursement program, the CERT. The CERT program eliminated several deductions allowed under the CAT, and adjusted others to reflect changes in the tax and duty incidence on the production of textiles and apparel. The overall effect of the change was to raise the rebate rate under the CERT program to 15.00 and 20.00 percent for textiles and to 20.00 percent for apparel. The former CAT rebates were 12.00 and 15.00 percent for textiles and 15.00 percent for apparel. We verified that rebates under this program are based on updated tax incidence calculations, using the model from the 1978 study. It is our policy to take into account for cash deposit purposes program-wide changes that occur after the review period and prior to a preliminary determination if we have verified information on the change and the magnitude of the resulting benefit.

To determine the benefit from this excessive remission of indirect taxes and import duties, we calculated the average incidence of indirect taxes and import duties on physically incorporated inputs for textiles and apparel, using tables provided by the Colombian government. These tables show the average incidence of indirect taxes and import duties on physically incorporated inputs in textiles and apparel. In addition, we allowed an adjustment to this rate based on the fact that the tax and duty incidence is calculated on the f.o.b. value of exported products, while the amount of CERT rebate upon export is determined by multiplying the CERT rate by the portion of the value of the exported product attributable to domestic value-added and imported inputs on which duties have been paid. Based on this calculation, we find an allowable rebate of 9.60 percent for textiles and 6.00 percent for apparel. Subtracting these amounts from the weighted-average CERT rebate rate on textiles (the CERT rate was weight-averaged by the proportions of textiles which receive 15 percent and those which get 20 percent) and the 20.00 percent CERT rebate on apparel, we calculate an estimated net bounty or grant of 7.00 percent *ad valorem* for textiles and 14.00 percent *ad valorem* for apparel.

B. Export Financing Through the Export Promotion Fund

1. *Working Capital Loans Under Resolution 59.* Colombian manufacturers of certain textile mill products and apparel for export receive short-term financing under Resolution 59, which was passed by the Monetary Board of Colombia on August 30, 1972. It authorizes the provision of working capital loans to companies which produce, store or sell merchandise other than coffee and petroleum, exclusively for export. Resolution 59 financing is administered by the Export Promotion Fund ("PROEXPO"), a government agency, and is disbursed by banks and other financial institutions.

The interest rate on such loans during the period of investigation was 19 percent per annum until March 31, 1983, and 18 percent afterwards. The duration of loans is six months, and the

maximum principal is 80 percent of the value of the merchandise. Because this loan program is limited to exports, we consider that it confers a bounty or grant to the extent that financing is made available as preferential interest rates. In our preliminary determinations, we chose an interest rate of 36 percent, based on best evidence, as the short-term commercial interest rate against which to measure the benefit conferred by Resolution 59 loans.

At verification we examined data from the Central Bank, the Monetary Board, commercial banks and other financial institutions. The information we examined indicated that there is no single predominant alternative source of non-preferential, short-term financing in Colombia.

The Colombian government has established many different lines of credit, with fixed interest rates, rediscount rates and rediscount margins, in order to assist Colombia's economic development. Some credit lines, such as PROEXPO, are targeted to specific economic sectors, while others are generally available to all industry. Through high reserve requirements and a variety of forced investments, the government controls a majority of the available lending capital in the economy. These funds are used to capitalize the diverse credit lines, which are lent to borrowers through banks and other financial institutions. The remaining resources of the banks and other institutions may be lent at or below legal maximum interest rate of 36 percent per annum. They may also be lent as a portion of the government-directed special credit line, since the total amount of government fund lending that any credit institution processes is not limited to the amount of its capital held in reserves and forced investments. Although credit institutions may lend from their own resources at rates as high as 36 percent, they may find it more profitable to process a government fund loan because the high rediscount margin of most of these funds requires the credit institution to furnish on average only 10 percent of the principal amount of the loan.

We found that borrowers in Colombia generally negotiate a "package" loan agreement with a bank. The package will consist of funds drawn from several credit lines at statutorily-controlled interest rates and may include funds from the bank's own resources, at an interest rate of 30 to 36 percent per annum.

Thus, we determine that the non-preferential alternative to Resolution 59 loans is a package of generally available government credit lines and commerical borrowing. To calculate the short-term benchmark, we used Central Bank data to estimate the amount of capital lent through government credit lines that are generally available, and that are available for lending at unregulated interest rates. We then weight-averaged the statutory interest rates on generally available government funds and the average commercial interest rate in 1983, to find a short-term benchmark interest rate of 28.19 percent. Comparing this benchmark rate to the 18 and 19 percent interest rates on PROEXPO loans, we calculate an estimated net bounty or grant of 2.09 percent *ad valorem* for textiles and 0.84 percent *ad valorem* for apparel.

2. *Special Line of Credit to the Textile Industry.* In 1982 the Government of Colombia established a special line of credit to the textile industry that refinanced all outstanding short-term as well as certain long-term PROEXPO Loans. The outstanding balances were combined and refinanced in December 1982 or early 1983 for a term of two years at an interest rate of 18 percent. Three textile producers and one apparel producer under investigation had loans outstanding under this program during the review period.

At verification, we learned that one of the conditions set by the government for refinancing under this program was that the companies meet minimum export goals for 1983. Since the refinancing is contingent upon export performance, we determine that the program constitutes an export bounty or grant to the extent that financing is made available at preferential rates.

In our preliminary determinations, we used the short-term commercial loan benchmark of 36 percent as the best information available for a long-term loan benchmark. During verification, we learned that all commercial banks and credit institutions are prohibited from lending at terms longer than one year. The only sources of long-term financing in Colombia are the various financial funds and special credit lines established by the government. The terms, conditions and interest rates for all of these funds are regulated by the government.

Our long-term loan methodology requires the use of company-specific benchmark rates when available. Long-term interest rates may vary widely from industry to industry, from year to year, and usually depend on many factors, such as a company's size and creditworthiness. In Colombia, the cost of long-term credit does not vary widely from company to company because the interest rates are set by the government.

Many of the preferential and non-preferential long-term loans that we saw on companies' books were not granted in the same year as the special credit line for the textile industry. However, the interest rates set on these long-term loans have remained constant since the loans were granted. We therefore determine that the most appropriate long-term benchmark is the weighted-average interest rate during the review period of those government funds that offer long-term financing to a broad spectrum of industries and that are not contingent on export performance. These funds include the Industrial Financial Fund (FFI), the Private Investment Fund (FIP), the Industrial Development Institute (IFI), and the Capital Formation Fund (FCE).

We calculated the weighted-average benchmark rate according to the total amount of loans made through each of these funds in 1983 and the corresponding average long-term interest rate established for each one. In this way, we determine that the national average non-preferential long-term interest rate in Colombia during 1983 was 25.55 percent.

One of the apparel firms that we verfied, Fabricato, entered into court-ordered reorganization during the review period. Interest and principal payments on all its outstanding debt were suspended. We verified that this practice is consistent with Colombian bankruptcy laws and procedures. Consistent with our past practice, we have not included this company's refinanced loans in our calcuation of the benefits from this program.

Loans from the special credit line for the textile industry were negotiated at the end of 1982 and in early 1983. Since we did not have the appropriate information to calculate each company's weighted cost of capital for those years, we used the 1983 national average cost of long-term debt as the discount rate for both years. Using this method, we calculated an estimated net bounty or grant from this program of 4.00 percent *ad valorem* for textiles and 1.21 percent *ad valorem* for apparel.

3. *Credit for Capital Investment Under Decree 2366.* Under Decree 2366, PROEXPO provides long-term financing for capital investment through commercial banks. The annual amount of the loan cannot exceed two million pesos and maximum term is five years. The annual interest rate for these loans is 14 percent, though we found that banks can charge a spread over this rate in special circumstances. Three of the companies under investigation, representing both textile and apparel

exports, had loans outstanding under this program during the review period.

This financing is available only to applicants whose investment projects are approved by PROEXPO. Since PROEXPO financing is limited to exporters, we determine that this program confers a bounty or grant on exports of the subject merchandise. Using the same methodology and long-term interest rate benchmark described for the "Special Credit Line for Textiles," we calculate an estimated net bounty or grant of 0.25 percent *ad valorem* for textiles and 0.28 percent *ad valorem* for apparel.

II. Programs Determined Not to Confer Bounties or Grants

We determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Colombia of certain textile mill products and apparel under the following programs:

A. Employee Training Program

El Servicio Nacional de Aprendizaje ("SENA") provides general education and training programs to unemployed and underemployed workers in Colombia. We determine that this program does not confer a bounty or grant because we verified that it is not limited to a specific industry or enterprise, or group of industries or enterprises, or to companies in a specific region.

B. Duty and Tax Exemptions for Imported Materials Under the Plan Vallejo

The Plan Vallejo provides exemptions from customs duties and the Colombian sales tax for imported raw materials and intermediate inputs which are subsequently exported as a component of the finished product. The exemption from import charges imposed on items physically incorporated into the exported product is not countervailable. At verification we examined both import and export manifests submitted to Customs by participating companies. These manifests must account for all goods imported duty-free and subsequently exported. Each year the companies must prove to Customs, through actual documents, that they have in fact exported as part of a finished good all materials imported duty-free under Plan Vallejo. To the extent that all merchandise imported duty-free is physically incorporated into a final product and subsequently exported, we determine that this program does not confer a bounty or grant.

C. Financing through the Private Investment Fund and the Industrial Development Institute

The Private Investment Fund (FIP) and the Industrial Development Institute (IFI) provide long-term financing to certain industrial sectors and for selected projects. At verification we examined the lending distribution statistics and the annual reports of these funds. Based on our review of these documents, we determine that IFI and FIP financing is not limited to a specific enterprise or industry, or industry or group of enterprises or industries, or to companies located in specific regions of Colombia.

III. Programs Determined Not to be Used

We determine that the companies under investigation did not use the following programs which were listed in our notice of initiation:

A. Free Industrial Zones

The Colombian government has established Free Industrial Zones ("FIZ") dedicated to export production. Manufacturers located in a FIZ receive certificates worth 15 percent of the f.o.b. value of the Colombian value-added on exported merchandise. We determine that this program was not used by the companies under investigation.

B. Export Insurance

Decree 444 of 1967 created an export credit insurance program to provide commercial, political and special risk insurance on exports. Petitioners alleged that the Government of Colombia pays a portion of the cost of this program. We verified that the program is managed by a private company under contract to PROEXPO. We determine that this program was not used by the companies under investigation for exports to the United States.

C. Duty and Tax Exemptions for Capital Equipment Under the Plan Vallejo

The Plan Vallejo provides exemptions from customs duties and the Colombian sales tax for capital equipment which is imported exclusively for the production of exports. We verified that this program was not used by the companies under investigation.

E. Countertrade

The countertrade program, authorized by Decree 370 of February 15, 1984, allows any company to engage in countertrade, if such trade will create new markets or new products. We verified that this program was not used by the companies under investigation, during the review period.

Petitioners' Comments

Comment 1. Petitioners contend the Department should choose a short-term benchmark that reflects the effective cost of alternative financing that was available to the textile industry during the period of investigation. An effective benchmark should include fees and other charges that constitute incidental costs of borrowing. Petitioners further argue that the Department should reject the "average interest rate" information supplied by respondents, as these rates included the cost of the preferential loans under investigation.

DOC Position. As stated in the Subsidies Appendix, the Department's policy is to choose as a short-term benchmark "the most appropriate national average commercial method of short-term financing." During verification, we found that there is no single predominant source of short-term non-preferential financing in Colombia. We verified that it is common commercial practice to negotiate loan agreements with funds drawn from several sources, including government-mandated credit lines and banks' own resources. Therefore, for purposes of our final determinations, we calculated a national average non-preferential interest rate as our short-term benchmark. This interest rate is based on a weighted-average of generally available government funds and the average short-term interest rate on loans from banks' own resources. We verified that the borrowing fees apply to both preferential and non-preferential financing. Therefore, we have not added such fees to either the preferential interest rate or our short-term benchmark.

Comment 2. Petitioners argue that the CAT program is fully countervailable, and that no allowance for "rebatable" indirect taxes should be allowed, since the Colombian government has not provided the Department with an adequate fiscal-incidence study.

DOC Position. We verified that the 1978 tax incidence study establishes a link between eligibility for the rebates and indirect taxes and import duties actually paid.

Comment 3. Petitioners allege that in calculating the extent of the overrebate in the CAT program for the preliminary determinations, the Department considered "indirect social taxes" on inputs to be rebatable. Petitioners contend that these taxes (*e.g.*, social security and social welfare payments) are not rebatable even if they are related to physically incorporated inputs. They argue, therefore, that these

social taxes must not be included in the determination of "allowable" CAT rebates.

DOC Position. We agree. To determine the benefit from the excessive remission of indirect taxes and import duties, we have calculated the average incidence of only those indirect taxes and import duties on physically incorporated inputs for textiles and apparel. We verified that these "indirect social taxes" are in fact direct taxes paid by upstream producers. The CERT rates which were used for these final determinations do not include these social taxes.

Comment 4. Petitioners argue that, based on the "best information available," the Department should presume that the 71 exporters and manufacturers of textiles and textile products who received CATs during the review period, but were not included in the "sample," received CAT benefits at the highest level conferred on any firm in the sample. Petitioners further argue that the calculation of subsidies conferred by the CAT should include those benefits.

DOC Position. We do not believe that section 776(b) of the Act mandates the use of the best information available in this instance. The information we requested, and verified, provides a sufficient basis for our final determinations. For a full discussion of the methodology used to select companies to respond to our questionnaire, see "Final Negative Countervailing Duty Determinations: Certain Textile Mill Products and Apparel from Malaysia" (50 FR 9852, March 12, 1985).

Comment 5. Petitioners contend that the Department correctly found that all PROEXPO loans under Resolution 59 and Decree 2366 made to the "sample" firms are countervailable since these loans are limited to firms that produce, store or sell goods for export. Furthermore, petitioners argue that even if these loans are not limited to exports, they must be shown to be "generally available" in order not to be countervailable.

DOC Position. We agree. See our discussion of this program in the "Export Financing through the Export Promotion Fund" section of this notice.

Comment 6. Petitioners argue that the Department should treat the suspension of interest payments on loans to one company in the "sample" as a countervailable benefit even if the suspension of interest is a normal procedure in Colombian bankruptcy reorganization. Petitioners maintain that the reason for the company not paying interest (*i.e.*, the court-ordered reorganization) is irrelevant. They urge the Department to treat these as zero-interest loans.

DOC Position. We disagree. Since we verified that the suspension of interest is a normal practice in Colombian bankruptcy reorganization, we find that this benefit is not limited to a specific industry or enterprise, or group of industries or enterprises, or companies located in a specific region of Colombia.

Comment 7. Petitioners note that the government's initial questionnaire response reveals that at least two exporters not included in the "sample" received export insurance under Colombia's export insurance program. They argue that, since the questionnaire responses provided no information on the extent of the coverage, the costs of alternative insurance, or the extent to which the premiums cover the program's costs, the Department should assume, as "best information available," that the program offers insurance at preferential rates.

DOC Position. We found this not to be used by the firms under investigation. See DOC Position to Comment 4 above.

Comment 8. Petitioners allege that benefits conferred by IFI loans are countervailable because the questionnaire response states that they are available only to "medium or large industrial companies." They add that the record does not show that IFI loans are *de facto* "generally available."

DOC Position. We disagree. The Department has consistently held that medium-or large-sized businesses constitute more than one group or enterprises or industries. Furthermore, we found at verification that the IFI loan program is not limited, *de facto*, to a specific enterprise or industry, or group of enterprises or industries, and, therefore, is not countervailable.

Comment 9. Petitioners argue that the exclusion of benefits from the deferral of payments on an IFI loan granted to one "sample" company was incorrect. Petitioners argue that the appropriate standard (for whether to include or exclude the benefit from IFI loans) is whether the loan deferral is consistent with "commercial considerations" and not whether the loan deferral is "consistent with normal commercial practices."

DOC Position. We determined that the IFI program is not countervailable. (See our response to Comment 8 above.) Furthermore, IFI loans normally have a deferral period for principal repayments. Thus, the deferral of IFI loans payment is not countervailable because it is not provided to a specific enterprise or industry, or a group of enterprises or industries.

Comment 10. Petitioners contend that the Department must assume that the four firms which did not participate in the verification but which received IFI loans during the review period, as disclosed in the questionnaire responses, received benefits equal to the most highly subsidized IFI loans on record. The Department must, therefore, include these loans in the final subsidy calculation.

DOC Position. We disagree. See DOC Position on Comment 8 above.

Comment 11. Petitioners argue that the employee training program (SENA) is countervailable since the respondents have not shown that this program is generally available. Hence, the Department must consider the allegations in the petition to be the "best information available."

DOC Position. We verified that SENA is a domestic program not limited to a specific enterprise or industry, or group or enterprises or industries, or to companies in a specific region of Colombia, and, therefore, find that the program is not countervailable. See our discussion of this program in the "Programs Determined Not to Confer a Bounty of Grant" section of this notice.

Comment 12. Petitioners allege that according to the "best information available," the FIP loan program is countervailable because the record indicates that only the textile industry has used it. Moreover, the questionnaire reponses show that at least one non-verified firm has a FIP loan outstanding during 1983.

DOC Position. We verified that the FIP loan program is available to all industries in Colombia and therefore find that the program is not countervailable. See our discussion of this program in the "Programs Determined Not to Confer a Bounty or Grant" section of this notice.

Comment 13. Petitioners allege that the Free Industrial Zone program must be countervailed since as least four "non-sampled" textile or textile product exporters received benefits under this program during the review period.

DOC Position. We have found that this program was not used by the firms under investigation. See DOC Position on Comment 4 above.

Comment 14. Petitioners argue that the export "sales" of textile items resulting from Colombia's countertrade requirement would not have occurred without this program, and therefore are a benefit to respondents. Petitioners add that the benefit to the exporter is the selling price, less variable costs.

DOC Position. We verified that countertrade was not used by the

companies under investigation during the review period. Furthermore, Colombia's coutertrade system is not a "mandatory" program. We verified that the government, rather than "mandating" a countertrade transaction, must approve it. The burden falls on the applicant to convince the government that the particular export sale could not have been made in any way other than through a barter agreement. In order to receive approval for a countertrade transaction the exporter and/or importer must present a contract setting forth the terms of the transaction, formalized by the parties, prior to seeking the government's approval.

Comment 15. Petitioners allege that the PROEXPO loan programs are countervailable even if, as the Government of Colombia claims, they constitute a domestic and not an export subsidy, since they were granted at a below-market rate of financing.

DOC Position. We determine that PROEXPO loans are countervailable because they are limited to exporters and are provided at preferential rates. See our discussion of this program in the "Export Financing Through the Export Promotion Fund" section of this notice.

Comment 16. Petitioners contend that benefits from all PROEXPO special credit line financing received during the review period are countervailable, even if the loans were almost completely repaid by the date of the final determination.

DOC Position. We agree. See our decision on this program in the "Export Financing Through the Export Promotion Fund" section of this notice.

Respondents' Comments

Comment 1. Respondents argue that the eight textile producing companies and the two petitioning unions have not demonstrated their standing by submitting data to that effect required by Department regulations, and, therefore, the Department should terminate the investigations as to textile mill products and apparel.

DOC Position. We disagree. See our decision on standing in "Final Negative Countervailing Duty Determinations: Certain Textile Mill Products and Apparel from Malaysia" (50 FR 9852, March 12, 1985).

Comment 2. Respondents contend that the Department improperly determined that there was an excessive rebate of indirect taxes under the CAT program. Respondents argue that it was improper to calculate the value of the benefit on the basis of the data submitted by the six sample companies. Furthermore, respondents argue that the Department improperly disregarded numerous indirect taxes on inputs on which the CAT levels are based.

DOC Position. We agree. For the purposes of these final determinations, we used the Colombia government's tax incidence study to calculate average incidence of only those indirect taxes and import duties on physically incorporated inputs into textiles and apparel. See our discussion in the section of this notice on "Tax Reimbursement on Exports Under Law 636 of 1984."

Comment 3. Respondents argue that the Department should reject the unrealistically high 36 percent interest rate, used as a benchmark for Resolution 59, Resolution 14 and Decree 2366 loans in its preliminary determinations, and use the average interest rate calculated and documented by the Government of Colombia.

DOC Position. On the basis of best information available we used a 36 percent long-term and short-term benchmark for our preliminary determinations. For our final determinations, we constructed long-term and short-term benchmarks based upon additional, verified information concerning alternative sources of non-preferential financing. See our discussion of the benchmark issue in the "Export Financing through the Export Promotion Fund" section of this notice.

Comment 4. Respondents contend that the Department has improperly characterized refinancing by the Government of Colombia of outstanding PROEXPO loans held by the textile and apparel industry as an export subsidy. Respondents argue that these loans would be almost completely repaid by the time of the final determinations and that, therefore, only the outstanding portion of the loans should be considered in determining any deposit rate.

DOC Position. We disagree. We verified that only PROEXPO loans were refinanced under this Special Credit Line, and, since PROEXPO loans are limited to exporters, this program constitutes an export subsidy. To determine that benefit from a loan program it is the Department's policy to calculate the benefit as it accrues on the date of each interest payment throughout the review period. We only take into account program-wide changes or cessation of beneftis when such changes occur before our preliminary determination. See our discussion of this program in the "Export Financing Through the Export Promotion Fund" section of this notice.

Comment 5. Respondents contend that the 1978 CAT fiscal-incidence study, as supplemented by documents related to increases in indirect taxes and rebate costs, continues to be a valid basis for evaluating the CAT/CERT rebates. Respondents maintain that documents provided during the verification demonstrate that the Government of Colombia has calculated the incidence of each rebatable cost and indirect tax paid on inputs and that this evidence justifies the increases in the CAT/CERT rates.

DOC Position. We agree. See our discussion of this program in the "Tax Reimbursement on Exports under Law 636 of 1984" section of this notice.

Comment 6. Respondents argue that long-term financing through the IFI and the FIP is not countervailable since it is not limited to specific enterprises or industries or groups of enterprises or industries.

DOC Position. We agree. See our discussion of these programs in the "Programs Determined Not to Confer a Bounty or Grant" section of this notice.

Comment 7. Respondents contend that none of the companies under investigation participated in the Free Industrial Zone progam and that, in any case, no countervailable benefits are conferred by a company's location in a Fee Industrial Zone.

DOC Position. At verification, we fund that none of the companies under investigation were located in a Free Industrial Zone.

Comment 8. Respondents maintain that the countertrade program was not used by any of the companies under investigation, and that countertrade, as it operates in Colombia, does not confer any countervailable benefit.

DOC Position. Since we found at verification that this program was not used by the companies under investigation during the review period, the issue of a potential benefit from countertrade is moot.

Comment 9. Respondents maintain that the employee training program, SENA, does not provide any countervailable benefits to any textile or any apparel company because the training benefits it provides to workers are generally available to all Colombian companies.

DOC Position. We agree. See our determination on this progam in the "Programs Determined Not to Confer a Bounty or Grant" section of this notice.

Comment 10. Respondents argue that the subsidy rates for the "Special Credit Line" to the textile industry were greatly overstated in the preliminary determinations because we treated as zero-interest loans the financing received by one company which is undergoing court-ordered reorganization

and which, therefore, made no interest payments in 1983.

DOC Position. We agree. At verification we obtained additional information on standard Colombian practice and laws regarding debt repayments and bankruptcy procedures. Consistent with past practice, we excluded this company's refinanced loans from our calculation in determining the benefit to the textile industry from the special credit line.

Comment by Creaciones Inesita, A Party to the Proceeding

Creaciones Inesita, a Colombian apparel manufacturer, filed an application for exclusion from these investigations. The Department denied this request, and Creaciones Inesita filed a separate comment pertaining to its request for exclusion.

Comment. Creaciones Inesita applied for exclusion on the basis that it has not exported any products at all, either to the United States or to any third countries, and that it does not receive benefits either alleged in the petition or subject to the investigations. Creaciones Inesita argues that the Department's position not to exclude if from this proceeding on the basis that it does not export violates section 19 CFR 355.38 of the Department's regulations, which states in part that "any firm which does not benefit from a subsidy . shall be excluded from a countervailing duty order." The company also argues that since the Department sent it a questionnaire, the decision not to exclude it represents a change of Department policy.

DOC Position. The Department has consistently held that it cannot exclude non-exporting firms. The Department inadvertently sent Inesita a countervailing duty questionnaire. However, the Department could not determine from Inesita's response whether or not Inesita receives any bounties or grants. Thus, even if Inesita had exported, the Department could not have excluded Creaciones Inesita. See our decision on this issue under the "Case History" section of this notice.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During the verification we followed normal procedures, including meetings with government officials and inspection of documents as well as inspection of the records of the companies exporting the merchandise under investigation to the United States.

Administrative Procedures

We afforded interested parties an opportunity to present information and written views in accordance with Commerce regulations (19 CFR 355.34(a). Written views have been received and considered in reaching these final determinations. In the event the March 5, 1985, suspension agreement is violated, the Department, in accordance with section 703(d) of the Act, will direct the U.S. Customs Service to suspend liquidation of all entries or withdrawals from warehouse, for consumption of the subject merchandise and will issue final countervailing duty orders as required by section 704(i)(1)(C) of the Act.

This notice is published pursuant to sections 303 and 705(d) of the Act (19 U.S.C. 1303; 1671d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

April 3, 1987.

Appendix—List of TSUSA Codes Under Which There Were Imports From Colombia Into the United States During 1983

[The products covered by these investigations are certain textile mill products and apparel. The merchandise is currently classified under the item numbers of the *Tariff Schedules of the United States Annotated (TSUSA) listed below]*

Textile Mill Products

Yarns and Threads

300.6020 300.6028 301.0000 301.2000 301.3000 302.2024 302.3026 302.4028 302.4028 302.5026 303.2042 310.5047 310.9120

Fabric

320.0002 320.0040 320.0058 320.1038 320.1040 320.1044 320.1054 320.1058 320.1092 320.2032 320.2054 320.2058 320.2092 320.3026 320.3028 320.3058 320.4094 321.1002 321.1092 322.1058 322.1064 322.3092 323.0088 323.0092 323.1088 324.1092 325.1092 326.1092 331.2018 331.2020 331.3020 336.1540 336.6457

Special Construction Fabric

345.5075 346.1000 351.3000 351.4010 351.6060 355.6510 357.1500 357.4500

Textile Furnishings

360.1515 360.4825 363.0520 363.6540 363.8000 364.2300 365.7825 365.7865 365.8640 365.8670 366.8680 366.1540 366.2180 366.2460 366.2480 366.6500 366.6900 366.7925 367.6025

Miscellaneous

386.5045 389.4000 389.6265

Wearing Apparel

Apparel

370.2400 370.2800 372.1030 372.1050 372.1060 372.4500 374.1000 374.3550 374.6040 376.2430 376.2830 376.2886 378.0550 378.0553 378.6030 378.6530 379.0210 379.0220 379.0240 379.0490 379.0640 379.0642 379.0646 379.2020 379.2350 379.2610 379.3162 379.3164 379.3166 379.3168 379.3180 379.4020 379.4050 379.4320 379.4620 379.4640 379.4670 379.5550 379.6210 379.6217 379.6219 379.6220 379.6230 379.6240 379.6260 379.6280 379.7250 379.7630 379.8311 379.8340 379.8351 379.8356 379.8357 379.8358 379.8359 379.8360 379.8420 379.8735 379.8904 379.8922 379.8924 379.8926 379.8928 379.9020 379.9555 379.9562 379.9564 379.9566 379.9568 379.9575 379.9585 379.9610 379.9620 379.9645 383.0213 383.0226 383.0228 383.0306 383.0330 383.0350 383.0390 383.0505 383.0506 383.0570 383.0608 383.0606 383.0622 383.0631 383.0616 383.0630 383.0805 383.0810 383.0815 383.0841 383.0860 383.1510 383.1611 383.1612 383.1613 383.1680 383.1841 383.2014 383.2016 383.2060 383.2205 383.2212 383.2214 383.2230 383.2240 383.2305 383.2310 383.2315 383.2325 383.2330 383.2340 383.2350 383.2352 383.2360 383.2365 383.2715 383.2730 383.2920 383.3010 383.3090 383.3445 383.3448 383.3465 383.3770 383.4300 383.4709 383.4716 383.4717 383.4718 383.4724 383.4726 383.4753 383.4761 383.4765 383.5026 383.5028 383.5041 383.5086 383.5090 383.5830 383.6200 383.6330 383.6360 383.6371 383.7205 383.7210 383.7522 383.7532 383.7534 383.7536 383.7538 383.7542 383.7544 383.7546 383.7548 383.7552 383.7554 383.7556 383.7528 383.7558 383.7562 383.7595 383.8012 383.8045 383.8125 383.8621 383.8670 383.9015 383.9032 383.9037 383.9040 383.9050 383.9056 383.9057 383.9058 383.9059 383.9061 383.9062 383.9063 383.9064 383.9066 383.9070 383.9211 383.9225 383.9230 383.9240 383.9245 383.9255

Headwear

702.0600 702.1200 703.1610 703.1620 703.1630 703.1640 703.1650

Gloves

704.1595

Luggage and Handbags

706.3640 706.4106 706.4150

Mattresses, Pillows and Cushions

727.8200

[FR Doc. 87-8987 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DS-M

Werner Ernst Gregg; Order Denying Permission To Apply for or Use Export Licenses

On February 16, 1986, Werner Ernst Gregg (Gregg), 8647 Raytown Road, Kansas City, Missouri 64138 was convicted, on three counts, of violating Section 38 of the Arms Export Control Act, 22 U.S.C. 2778 (1982) (AECA). As provided in Section 11(h) of the Export Administration Act of 1979 (50 U.S.C. app. 2401 through 2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985)) (the Act), no person convicted of a violation of Section 38 of the AECA[1] or certain other

[1] In addition to section 38 of the AECA, section 11(h) also provides that any person convicted of a violation of section 793, 794, or 798 of Title 18, United States Code, and section 9(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)) may be denied the privilege of applying for or using any export licenses.

provisions of the United States Code shall be eligible, at the discretion of the Secretary,[2] to apply for or use any export license issued pursuant to the Act or the Export Administration Regulations (currently codified at 15 CFR Parts 368 through 399 (1986)) (the Regulations), for a period of up to ten years from the date of conviction. In addition, the Secretary may revoke any export license issued in accordance with the Act or the Regulations in which a person convicted of violating Section 38 of the AECA has an interest at the time of conviction. Further, any firm, corporation or business organization which is related, through affiliation, ownership, control, position of responsibility or other connection in the conduct of trade or related services, to any person convicted of violating Section 38 of the AECA, may also be denied the privilege of applying for or using any export license issued pursuant to the Act or the Regulations.[3]

Pursuant to §§ 370.15 and 372.1(h) of the Regulations, upon notification that a person has been convicted of violating Section 38 of the AECA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to the Act and the Regulations and shall also determine whether to revoke any export license previously issued to such a person. Having received notice of Gregg's conviction for violating section 38 of the AECA, I have consulted with the Acting Director, Office of Export Enforcement, and have decided as follows: (1) Gregg may not apply for or use any license until February 16, 1996, ten years from the date of his conviction; (2) Gregg International is a party related to Gregg through ownership; (3) given Gregg International's related party status, all outstanding licenses issued to Gregg International are hereby revoked and Gregg International may not apply for or use any export license until February 16, 1996.[4]

Accordingly, it is hereby

Ordered

I. All outstanding export licenses, including, but not limited to, all individual validated licenses, bulk licenses and general licenses, in which Gregg appears or participates, in any manner or capacity are herby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

II. Until February 16, 1996, Gregg is denied the privilege of applying for or using any export license, including, but not limited to, any individual validated license, bulk license or general license, issued under or authorized by the Act and the Regulations.

III. After notice and opportunity for comment, any firm, corporation or business organization with which Gregg may hereafter be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services may also be subject to the provisions of this Order. One business organization now known to be related to Gregg in the conduct of trade or related services and which is therefore denied the privilege of using or applying for any export license and whose outstanding export licenses are hereby revoked is: Gregg International, 8647 Raytown Road, Kansas City, Missouri 64138.

IV No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, may do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Gregg or Gregg International or whereby either Gregg or Gregg International may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

V This order is effective immediately and shall remain in effect until February 16, 1996.

VI. A copy of this order shall be served upon Gregg and Gregg International. This order shall be published in the Federal Register.

Dated: April 9, 1987.

Richard M. Seppa,

Acting Director, Office of Export Licensing.

[FR Doc. 87-8997 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DT-M

[2] This authority has been delegated by the Secreary to the Director, Office of Export Licensing.

[3] Related parties may be prohibited from applying for or using any export licenses issued pursuant to the Act and the Regulations in order to prevent circumvention or evasion of any order issued pursuant to section 11(h) of the Act.

In accordance with §§ 370.15 and 372.1(h)(2) of the Regulations, Gregg and Gregg International have have notified by letter that they may not apply for or use any export license until February 16, 1996. In addition, Gregg and Gregg International have been notified that Gregg International is a party related to Gregg through ownership and that, as a result, all of the oustanding export licenses presently held by Gregg International have been revoked.

National Oceanic and Atmospheric Administration

Listing of Endangered and Threatened Species; Action To Review the Status of River Dolphins

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of intent to conduct status reviews and request for information.

SUMMARY: NMFS will review the status of the Amazon, Ganges, Indus, and LaPlata river dolphins to determine whether any of these species should be added to the List of Threatened and Endangered Species. To ensure that the reviews are comprehensive, the Service is soliciting information and data concerning the status of these species. A review of the Chiness river dolphin is underway.

DATE: Comments and information should be received on or before June 22, 1987

ADDRESS: Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235 (202/673-5349).

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Endangered Species Act and 50 CFR Part 424 contain provisions allowing the Secretary of the Interior or the Secretary of Commerce to add or remove a species from the List of Endangered and Threatened Wildlife. If the Secretary determines there is substantial scientific or commercial information indicating that listing a certain species may be warranted, a status review is conducted.

A species is determined to be endangered or threatened for any of the following reasons: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Determinations concerning decisions on listings are made solely on the best scientific and commercial data available after a status review of the species is conducted and after taking into account any efforts being made by a State or foreign nation, or its subdivision, to protect the species. NMFS believes there is substantial scientific and commercial information indicating that the status of the following river dolphins should be reviewed: Amazon or boutu (*Inia geoffrensis*); Ganges or susu (*Platanista gangetica*); Indus or susu (*Platanista minor*); and LaPlata or franciscana (*Pontoporia blainvillei*).

Biological Information Solicited

To ensure that the review is complete and is based on the best available scientific and commercial data, NMFS is soliciting information and comments concerning the status of these river dolphins from any interested person. We request that data, information, and comments be accompanied by (1) supporting documentation such as maps, bibliographic reference, or reprints of pertinent publications and (2) the person's name, address, and any association, institution, or business that the person represents.

These reviews are in addition to NMFS' review of the Chinese river dolphin (52 FR 4800, Feb. 17 1987).

Dated: April 17, 1987.

Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87-9013 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; New York Aquarium (P112F)

Notice is hereby given that an Applicant has applied in due form for Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name New York Aquarium
   b. Address Boardwalk & West 8th Street, Brooklyn, New York 11224
2. Type of Permit: Public Display
3. Name of Number of Marine Mammals: Beluga Whales (*Delphinapterus leucas*) 2
4. Type of Take: Live Import
5. Location of Activity: Canada, Western Hudson Bay
6. Period of Activity: 3 Years

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested parties in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC; and

Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: April 7, 1987.

Dr. Nancy Foster,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 87-9071 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Guaranteed Access Levels for Certain Cotton, Man-Made Fiber and Other Vegetable Fiber Textiles and Textile Products From Jamaica

April 16, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, and the President's February 20, 1986 announcement of a Special Access Program for textile products assembled in participating Caribbean Basin beneficiary countries from fabric formed and cut in the United States, and pursuant to the requirements set forth in 51 FR 21208 (June 11, 1986), has issued the directive published below to the Commissioner of Customs to be effective on April 22, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A notice published in the **Federal Register** on March 23, 1987 (52 FR 9206) announced the establishment of guaranteed access levels for Categories 340/640, 341/641, 345/845, 352/652 and 632 in accordance with the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of August 27, 1986, as amended, and under the Special Access Program for certain properly certified textile products assembled in Jamaica from fabric formed and cut in the United States.

Textile products in the foregoing categories exported from Jamaica before March 1, 1987 shall not be denied entry for lack of a visa or certification. Exports from Jamaica of products qualifying for the Special Access Program for entry under TSUSA 807.0010, exported from Jamaica on or after September 1, 1986, in the case of Category 340/640; and exported from Jamaica on or before June 1, 1987 in the case of Categories 341/641, 345/845, 352/652 and 632; must be accompanied by a properly completed CBI Export Declaration (Form ITA-370p).

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to establish guaranteed access levels for properly certified textile products assembled in Jamaica from fabric

formed and cut in the United States and exported from Jamaica in the foregoing categories.

A description of the textile categories in terms of T.S.U.S.A numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27086) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

April 16, 1987

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of August 27, 1986, as amended, between the Governments of the United States and Jamaica and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, and the Special Access Program as set forth in 51 FR 21208 (June 11, 1986), you are directed to prohibit, effective on April 22, 1987, entry into the United States for consumption or withdrawal from warehouse for consumption of cotton, man-made fiber and other vegetable fiber textiles and textile products in Categories 341/641, 345/845, 352/652 and 632, produced or manufactured in Jamaica and exported from Jamaica on or after March 1, 1987 which are not properly visaed. You are also directed to prohibit entry of the foregoing categories exported from Jamaica on or after June 1, 1987 which are not certified in accordance with the certification requirements for products assembled in Jamaica from fabric formed and cut in the United States. The same requirement is hereby established for products in Category 340/640 that were exported on and after September 1, 1986.

The following guaranteed access levels have been established for properly certified textile products assembled in Jamaica from fabric formed and cut in the United States and exported from Jamaica during the periods September 1, 1986 through December 31, 1987 for Category 340/640 and June 1, 1987 through December 31, 1987 for Categories 341/641, 345/845, 352/652 and 632.

Category	16-mo level
340/640	200,000 dozen.

Category	7-mo level
341/641	116,667 dozen.
345/845	29,167 dozen.
352/652	554,167 dozen.
632	729,a167 dozen pairs.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983; (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated* (1987).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Donald R. Foote.

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-8989 Filed 4-21-87; 8:45 am]
BILLING CODE 3510-DR-M

Adjustment and Establishment of Import Restraint Limits for Certain Cotton, Wool, and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

April 16, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April 22, 1987. For further information contact Ross Arnold, International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 535-9480. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

A CITA directive dated December 30, 1986 (51 FR 47046) establishes limits for certain cotton, wool and man-made fiber textile products, including Categories 330-359 and 630-659 (Group II) and Categories 410-459 (Group III), produced or manufactured in Thailand and exported during the agreement year which began on January 1, 1987 and extends through December 31, 1987.

As a result of consultations held in December 1986, the Group II limit is being adjusted by shift from Group III, special carryforward used, and 1984 and 1985 overshipment charges. It is also being adjusted to account for carryforward used under the agreement. The Group III limit has been reduced to account for shift to Group II.

In addition, as a result of consultations held November 23, 1986, betweeen the Governments of the United States and Thailand, agreement was reached to establish a designated consultation level (DCL) for wool textile products in Category 448 within the Group III limit for the 1987 agreement year.

As a result, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to make the following adjustments:

Group III
- Shift from Group III—1,515,000 square yards equivalent
- Special carryforward used in 1986—5,000,000 square yards equivalent
- Regular carryforward used in 1986—5,702,909 square yards equivalent
- 1984 overshipments—8,000,000 square yards equivalent
- 1985 overshipments—1,050,000 square yards equivalent

Group III
- DCL for Category 448—10,500 dozen
- Shift to Group II—1,515,000 square yards equivalent.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), Novembrer 9, 1984 (49 FR 44782, July 14, 1986 (51 FR 25386) and in Statistical Headnote 5,

Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

April 16, 1987.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 23, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on April 22, 1987, the directive of December 23, 1986 is hereby amended to include an individual limit for wool textile products in Category 448 and adjusted limits for cotton, wool and man-made fiber textile products in Groups II and III, pursuant to the terms of the Bilateral Cotton, Wook and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983, as amended and extended. Category 448 is a sublevel of Group III and shall remain part of the group.

Category	Adjusted 12-mo limit [1]
Group II:	
330–359 and 630–659.	75,170,085 square yards equivalent.
Group III:	
410–459, 448	1,515,000 squre yards equivalent 10,500 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Donald R. Foote,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-8974 Filed 4-21-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Defense Science Board Task Force on Technology Base Management; Meeting

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Technology Base Management will meet in closed session on June 10–11, 1987 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will continue exploration and development of a broad range of advanced technologies, ensuring that they are properly structured and coordinated to facilitate the most efficient use of available resources to general technology and stimulate technical innovation in military systems.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 17, 1987.

[FR Doc. 87-9084 Filed 4-21-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 14 May 1987.

Time of Meeting: 0900–1630 hours.

Place: Logistics Center, Fort Lee, VA.

Agenda: The Logistics and Support Systems Functional Subgroup of the Army Science Board will meet to review current logistic initiatives to include the OSD-directed computer aided logisitic system. This meetinig will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph 10(d). The classified and nonclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87-8947 Filed 4-21-87; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Opening Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: 7 and 8 May 1987

Time of Meeting:

0800–1200 hours, 7 May, Defense Communications Agency HQ, Arlington, VA

1200–1700 hours, 7 May, Pentagon, Washington DC

0800–1700 hours, 8 May, HQ, Information Systems Engineering Cmd, Ft Belvoir, VA

Agenda: The Army Science Board Ad-Hoc Panel on Army Information Management Concepts and Architecture will meet to gather facts for its study. On the first day, the panel will conduct a discussion with DCA leaders to determine the current status of the Defense Digital Network and strategic communication and information management systems. During the afternoon session the panel will consider its findings to date and outline its report. On the second day the panel will hear briefings on sustaining Information Management programs from the Information Systems Engineering Command. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sandra F. Gearhart,

Administrative Assistant, Army Science Board.

[FR Doc. 87-9137 Filed 4-21-87; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Strategic Capabilities Task Force will meet May 6–7, 1987 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review the Navy's future needs and balance of strategic offensive/defensive forces, potential initiatives to enhance strategic capabilities, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: April 15, 1987.

Harold L. Stoller,

Commander, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 87-9005 Filed 4-21-87; 8:45am]

BILLING CODE 3810-AE-M

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Pacific Basin Task Force will meet May 12-13 1987 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to examine the broad policy issues related to maritime aspects in the Pacific. The entire agenda for the meeting will consist of discussions of key issues related to United States national security interests and naval strategies in the Pacific and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: April 15, 1987.

Harold L. Stoller,

Commander, JAGC, U.S. Naval Reserve. Federal Register Liaison Officer.

[FR Doc. 87-9006 Filed 4-21-87; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet May 20-21, 1987 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review maritime issues as they impact national security policy and requirements. The entire agenda for the meeting will consist of discussions of key issues related to national security policy, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 928, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: April 15, 1987

Harold L. Stroller,

Commander, JAGC, U.S. Naval Reserve Federal Register Liaison Officer.

[FR Doc. 87-9007 Filed 4-21-87; 8:45 am]

BILLING CODE 3810-AE-M

Board of Advisors to the Superintendent, Naval Postgraduate School; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School, Monterey, California, will meet on May 14-15, 1987, in Herrmann Hall at the school. On both days the first session will commence at 8:15 a.m. and terminate at 12:00 noon and the second session will commence at 1:15 p.m. and terminate at 5:00 p.m. All sessions are open to the public.

The purpose of the meeting is to elicit the advice of the board on the Navy's Postgraduate Education Program. The board examines the effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the Naval Postgraduate School as the board considers pertinent.

For further information concerning this meeting contact: Commander M.R. Merickel, USN (Code 007), Naval Postgraduate School, Monterey, California 93943-5000, Telephone: (408) 646-2513.

Dated: April 15, 1987.

Harold L. Stoller,

Commander, JAGC, USN, Federal Register Liaison Officer.

FR Doc. 87-9008 Filed 4-21-87; 8:45 am]

BILLING CODE 3810-AE-M

Navy Resale Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Navy Resale System Advisory Committee will meet on May 18, 1987 in the Ballroom of the Omni International Hotel, 777 Waterside Drive, Norfolk, Virginia 23510. The meeting will consist of two sessions: the first from 8:00 a.m. to 8:50 a.m., and the second from 9:00 a.m. until 4:30 p.m. The purpose of the meeting is to examine policies, operations, and organization of the Navy Resale System and to submit recommendations to the Secretary of the Navy. This agenda will include discussions of the organization of the Resale System, planning, financial management, merchandising, field support, and industrial relations.

The Secretary of the Navy has determined in writing that the public interest requires that the second session of the meeting be closed to the public because it will involve discussions of information pertaining solely to trade secrets and confidential commercial or financial information. These matters fall

within the exemptions listed in subsections 552b (c)(2)(4), and (9)(B) of WR 18 April 86 Title 5, United States Code. Therefore, the second session will be closed to the public.

For further information concerning this meeting, contact: Commander, R.F Hendricks, SC, USN, Naval Supply Systems Command, NAVSUP 09B, Room 606, Crystal Mall, Building No. 3, Arlington, Virginia 22202, Telephone Number: (202) 695-5457

Dated: April 9, 1987.

H.L. Stoller,

Commander, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 87-9009 Filed 4-21-87; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee Panel on Laser Eye Protection will meet on May 7 and 8, 1987 The meeting will be held at the Pentagon, Washington, DC. The meeting will commence at 8:00 a.m. and terminate at 5:00 p.m. on May 7; and commence at 8:00 a.m. and terminate at 4:00 p.m. on May 8, 1987. All sessions of the meetings will be closed to the public.

The purpose of the meeting is to review the current Navy and DOD R&D laser eye protection programs. The agenda will include technical briefings and discussions addressing the current and projected threat, cockpit compatability, operational requirements and organizational responsibilities. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meetings shall be closed to the public because they will be concerned with matters listed in section 552(c)(1) of Title 5, United States Code.

For further information concerning this meeting contact: Commander T.C. Fritz, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217-5000, Telephone number (202) 696-4870.

Dated: April 9, 1987.

Harold L. Stoller, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 87-9010 Filed 4-21-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER87-288-000 et al.]

Carolina Power & Light Co. et al., Electric Rate and Corporate Regulation Filings

April 14, 1987.

Take notice that the following filings have been made with the Commission:

1. Carolina Power & Light Company

[Docket No. ER87-288-000]

Take notice that on April 3, 1987, Carolina Power & Light Company (CP&L), tendered for filing a letter recognizing that any charges in excess of one mill per kwh will constitute a change in rate requiring a timely filing of a change in rates pursuant to part 35 of the Commission's Regulations.

CP&L states that the Public Works Commission of the City of Fayettville agrees with the above interpretation.

Comment date: April 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Public Service Company

[Docket No. ER87-20-000]

Take notice that on March 31, 1987, Iowa Public Service Company filed an application pursuant to section 204 of the Federal Power Act seeking authority to issue up to $135 million of short-term unsecured promissory notes to commercial banks, its parent or affiliated companies and commercial paper dealers. All proposed notes are to be issued on or before April 30, 1988, and will bear final maturity date no later than April 30, 1989.

Comment date: April 28, 1987 in accordance with Standard Paragraph E at the end of this notice.

3. New York State Electric & Gas Corporation

[Docket No. ER87-366-000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on April 3, 1987 tendered for filing pursuant to Section 35.12 of the Regulations under the Federal Power Act, as a rate schedule, an agreement with Rochester Gas & Electric Corporation (RG&E). The short term agreement provides that NYSEG shall sell surplus capability and associated energy to RG&E. Service under this agreement was scheduled to commence on February 8, 1987 and be terminated on March 7 1987 unless extended in writing by mutual agreement.

NYSEG has filed a copy of this filing with Rochester Gas & Electric Corporation and with the Public Service Commission of the State of New York.

NYSEG requests that the 60-day filing requirement be waived and that February 8, 1987 be allowed as the effective date of the filing.

Comment date: April 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Niagara Mohawk Power Corporation

[Docket No. ER87-293-000]

Take notice that on April 2, 1987, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing an amendment to a letter dated March 5, 1987 which the Commission found to be erroneous as to the effective dates referenced in the letter.

Comment date: April 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER87-279-000]

Take notice that on April 2, 1987, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively the Companies) jointly tendered for filing a letter requesting that the proposed effective date in Docket No. ER87-279-000 be postponed to January 1, 1988. The Companies state that Northern States Power Company (Wisconsin) has reached a settlement agreement with its wholesale customers in Docket No. ER87-359-000. A term of the settlement agreement is to postpone the effective date of the filing in the above mentioned docket. To accomodate the requested effective date, the Companies request waiver of the requirement of § 35.3 of the regulations.

Comment date: April 30, 1987 in accordance with Standard Paragraph E at the end of this notice.

6. Ohio Edison Company

[Docket No. ER87-369-000]

Take notice that Ohio Edison Company on April 7 1987 tendered for filing, on its own behalf, and on behalf of Pennsylvania Power Company and Allegheny Power Service Corporation, Supplement No. 1 to the OE-APS Energy Supply Agreement of May 2, 1983. The proposed changes involve changes in

the monthly and daily reservation charges and provides an expanded termination provision. These changes are being made to meet market conditions.

This filing was served upon the Public Utilities Commissions of Ohio, Pennsylvania, Maryland, Virginia and West Virginia.

Comment date: April 28, 1987 in accordance with Standard Paragraph E at the end of this notice.

7. Ohio Edison Company

[Docket No. ER87-374-000]

Take notice that Ohio Edison Company (Ohio Edison) on April 9, 1987 tendered for filing proposed changes in its FERC Electric Tariff Schedule No. 150 and Supplements 1 through 5 applicable to sales and service to American Municipal Power-Ohio). The proposed changes would increase revenues for jurisdictional sales and service as the result of an increase in the regulation capacity charge by $741,187.55 based on the twelve months ending February 28, 1988.

Ohio Edison proposed an effective date of March 26, 1987 for the increase in charges for Regulation Capacity.

Ohio Edison states that the reason for the proposed increase for Regulation Capacity charge is to conform with the retail General Service Large Customers tariffs as approved by the Public Utilities Commission of Ohio in the manner provided for and as described in Schedule 150 and its Supplements.

According to Ohio Edison, a copy of the filing was served on AMP-Ohio, the jurisdictional customer affected by the proposed charges and The Public Utilities Commission of Ohio.

Comment date: April 28, 1987 in accordance with Standard Paragraph E at the end of this document.

8. Pacific Gas and Electric Company

[Docket No. ER86-107-000]

Take notice that on April 6, 1987, Pacific Gas and Electric Company (PGandE) tendered for filing and acceptance a proposed refund to Sierra Pacific Power Company (Sierra). The refund follows from refunds PGandE's Gas Department received from its gas suppliers and which it passed on to PGandE's Electric Department and its customers.

Copies of the filing were served on Sierra and the California Public Utilities Commission.

Comment date: April 28, 1987 in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER87-368-000]

Take notice that Pacific Gas and Electric Company (PGandE), on April 4, 1987 tendered for filing a revised rate schedule supplement for firm transmission service to the State of California Department of Water Resources (DWR).

The revised rate schedule supplement is revised to provide for the addition of three delivery points and charges for transmission service provided to those delivery points. These delivery points were not included on the tariff sheet filed in the PGandE/DWR 1986 Rate Settlement (Docket No. ER86-120), which was accepted for filing and designated Supplement No. 8 to Rate Schedule FERC No. 77 on June 19, 1986.

PGandE has requested a waiver of the notice requirements of Section 35.3 of the Commission's Regulations so as to permit an effective date of January 2, 1986 for the proposed rate schedule supplement.

Copies of this filing were served upon the California Public Utilities Commission.

Comment date: April 28, 1987 in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Electric and Gas Company

[Docket No. ER87-371-000]

Take notice that on April 9, 1987 Public Service Electric and Gas Company (Public Service) tendered for filing an initial Rate Schedule pursuant to which Public Service will receive Atlantic City Electric Company's, Jersey Central Power and Light Company's and Rockland Electric Company's shares of the State of New Jersey's allocation of non-preference hydroelectricity from the New York Power Authority's St. Lawrence Project and will distribute to those utilities their respective proportionate shares of the net economic benefit realized by Public Service as a result thereof.

Public Service requests a waiver of notice requirements with the parties' consent so that the Rate Schedule can be made effective as of July 1, 1986 in order to preserve the benefits of the power.

Public Service states that a copy of this filing has been served by mail upon the companies and the New Jersey Board of Public Utilities.

Comment date: April 28, 1987 in accordance with Standard Paragraph E at the end of this notice.

11. SES Millbury Company, L.P.

[Docket No. ER87-372-000]

Take notice that on April 9, 1987 SES Millbury Company, L.P ("SES Millbury") tendered for filing (1) a proposed initial rate schedule ("SES Millbury Rate Schedule No. 1"), consisting of an Electric Power Purchase Agreement (the "Agreement"), dated as of December 17 1985, governing sales by SES Millbury to New England Power Company ("NEP") of electric power generated by a biomass fueled small power production facility under construction in Millbury, Massachusetts (the "Facility") and (2) a petition for waiver of the Commission's regulations requiring that cost-of-service data be submitted with the rate schedule and that the rate schedule must be submitted to more than 120 days before electric service commences.

Comment date: April 28, 1987 in accordance with Standard Paragraph E at the end of this notice.

12. South Carolina Electric & Gas Company

[Docket No. ER87-367-000]

Take notice that South Carolina Electric & Gas Company ("SCE&G") on April 6, 1987 tendered for filing a contract for purchases of economic energy by Florida Power and Light Company from SCE&G.

SCE&G requests an effective date of February 1, 1987 for the contract. SCE&G requests waiver of the Commission's notice requirements under Section 35.11 of the Commission's Regulations.

Comment date: April 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

13. South Carolina Electric & Gas Company

[Docket No., ER87-370-000]

Take notice that South Carolina Electric & Gas Company (SCE&G) tendered for filing on April 8, 1987 Fourteenth Revised Sheet No. 5, Fourteenth Revised Sheet No. 6, to its FERC Electric Tariff, Original Volume No. 1. These sheets contain proposed reductions to SCE&G's rates and charges to its municipal, rural electric cooperative and public power body sales-for-resale customers.

SCE&G proposes to place the revised tariff sheets containing the proposed rate reduction into effect on February 5, 1987

SCE&G states that the proposed rates would decrease revenues by approximately $739,085 for the 12 month period ending December 31, 1986.

SCE&G states that the proposed decreased rate is necessitated by its last approved Settlement Agreement with its

municipal, rural electric cooperative and public power body sale-for-resale customers wherein this wholesale rate would track the Company's large general service rate.

Copies of the filing have been served upon SCE&G's jurisdictional customers and the South Carolina Public Service Commission.

Comment date: April 28, 1987 in accordance with Standard Paragraph E at the end of this notice.

14. Virginia Electric and Power Company

[Docket No. ER87-289-000]

Take notice that on April 8, 1987 Virginia Electric and Power Company (the Company) tendered for filing a Certificate of Concurrence by Appalachian Power Company (Appalachian) to Modification No. 25 to the Interconnection Agreement dated February 1, 1948 between the Company and Appalachian. In addition, the Company filed a revised page 3 to Modification No. 25 to correct two errors in the original filing.

The Company requests a waiver of the Commission's notice requirements as to permit a February 1, 1987 effective date.

Copies of the supplemental filing were served upon the North Carolina Utilities Commission, the Virginia State Corporation Commission and the Public Service Commission of West Virginia.

Comment date: April 28, 1987 in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any peson desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-9023 Filed 4-21-87 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-329-001]

Erie Pipeline System; Intent To Prepare a Draft Environmental Impact Statement and Request for Comments on Its Scope

April 17, 1987.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC or Commission) has determined that approval of this project would be a major Federal action significantly affecting the quality of the human environment. Therefore, pursuant to § 2.82(b) of the Commission's General Policy and Interpretations [18 CFR 2.82(b)], a draft environmental impact statement (DEIS) will be prepared by the FERC.

Introduction

On February 18, 1987 Erie Pipeline System (Erie) filed an amended application with the FERC seeking a certificate of public convenience and necessity to construct and operate 379 miles of 30-inch-diameter pipeline and a total of 39,600 horsepower of compression and related metering facilities in Ohio and Pennsylvania. Erie filed its application pursuant to section 7(c) of the Natural Gas Act (NGA) and Subpart E of Part 157 of the FERC's regulations under the Natural Gas Act—the optional certificate and abandonment procedures [18 CFR 157.100, *et seq.*].

The optional certificate procedures do not lessen the requirement that Erie comply with all applicable environmental laws; nor do the optional certificate procedures exempt Erie from state and local permit requirements. The National Environmental Policy Act applies equally to applications filed under traditional NGA section 7 procedures and to applications filed under the optional certificate procedures. State and local permit requirements relating to construction and other environmental matters apply equally as well.

Erie would be a partnership of ANR Eastern Pipeline Company and a corporation to be formed by The Columbia Gas System, Inc. Erie has designed its facilities to transport up to 425,000 Mcf per day of natural gas on a firm basis. Erie would also provide interruptible transportation service to the extent that capacity is available. Erie proposes to receive and/or to deliver gas supplies anywhere along the entire route of the pipeline, provided that it is economically feasible to do so. At this time, Erie is actively seeking contracts to transport gas and none of its capacity has been committed to any shipper.

The Commission staff will analyze the environmental impact of Erie's known proposed facilities that extend from a point of interconnectin with an ANR Pipeline Company compressor station in Defiance County, Ohio, to a terminal point in Clinton County, Pennsylvania, in this DEIS. Erie will seek authorization for any additional interconnections to carry out this proposed service as contracts are signed. Erie is also seeking in Docket No. CP86-330-001 a blanket certificate of public convenience and necessity under § 284.221 of the FERC's regulations to provide self-implementing transportation services for others. Should Erie or any other company make known their need for additional facilities that are required to implement service through the Erie Pipeline Project, the staff will either include these facilities in the DEIS or supplement the environmental impact statement. For example, such facilities could include additional pipeline east of Clinton County, Pennsylvania to deliver gas further to the east.

Location and Land Requirements

Figure 1 shows the location of the pipeline.[1] Table 1 identifies the counties crossed by the proposed pipeline and the location of three new compressor stations. Approximately 3,500 acres of land would be disturbed during construction and about 2,300 acres would be retained as permanent right-of-way for the pipeline.

Outline of Current Issues

The DEIS will address the environmental concerns that have been identified by intervenors and individuals in their letters and motions filed with the FERC. These include, but are not limited to, the following:

Soils

—Impacts on drainage tile systems, compaction, top soil placement, settling, erosion, and surface rock.

Land Use

—Effects on public lands.
—Eminent domain.
—Future development effects and tax considerations.
—Effects on roads.

[1] Figure 1 is not printed in the Federal Register, but is available from the FERC's Division of Program Management, Public Reference Section, telephone (202) 357-8118.

TABLE 1.—PROPOSED ERIE PIPELINE PROJECT FACILITIES

Company and proposed facilities	Location/State/County	Right-of-way width (feet)		Comments
		Construction	Permanent	
Erie Pipeline System:				
379 miles of 30-inch-diameter pipeline	OH: Defiance, Henry, Wood, Seneca, Huron, Ashland, Wayne, Summit, Stark, Columbiana; PA: Lawrence, Butler, Armstrong, Clarion, Jefferson, Clearfield, Elk, Cameron, Clinton.	75	50	New.
East Defiance Compressor Station	OH: Defiance			10,000 hp, 20-acre site.
Columbiana Compressor Station	OH: Columbiana			15,000 hp 30-acre site.
Leidy Compressor Station	PA: Clinton			14,800 hp, 20-acre site.

Pipeline Safety

—Encroachment on residential properties.
—Impact on farming, commercial, and industrial operations.
—Safety considerations during construction and operation.
—Effects from blasting.
—Compatibility with other pipelines and storage operations.

Topography and Geology

—Effects on wells.
—Seismic considerations and stability of the region.
—Limestone/bedrock effects.

Aesthetics

—Effect of appearance of the right-of-way.

Cultural Resources

—Historic properties and archaeology.

Air and Noise Quality

—Operations at the proposed compressor stations.
—Dust.

Wildlife, Fisheries, and Their Habitat

—General concerns identified.

Water Resources

—Impact on stream crossings.
—Wetlands.

Clearing of Trees

—Acreage.

Threatened and Endangered Species

—State and Federal listed species.

Alternatives, route modifications, and specific mitigating measures will also be considered in the staff's analysis. After comments from this notice are received and analyzed and the various issues are investigated, the staff will publish a DEIS entitled "Erie Pipeline Project."

Comment and Scoping Procedure

The DEIS will be mailed to Federal, state, and local agencies, public interest groups, interested individuals, newspapers, libraries, and parties to the proceeding. A 45-day period will be allotted for review and comment. Any person may file a petition to intervene on the basis of the staff DEIS [18 CFR 2.82(c)]. After these comments are reviewed, any new issues are investigated, and modifications are made to the DEIS, a final EIS will then be published by the staff and distributed.

A copy of this notice has been distributed to Federal, state, and local agencies, public interest groups, libraries, newspapers, parties to the proceeding, and the public. Additional information about the project was also mailed to everyone that is on the environmental mailing list. This information is available upon request. (See the first footnote in this notice.) Written comments are requested to help identify significant issues or concerns related to the proposed action, to determine the scope of the issues that need to be analyzed, and to identify and eliminate from detailed study the issues which are not significant. All comments on specific environmental issues should contain supporting documentation or rationale. Written comments must be filed on or before June 8, 1987, reference Docket No. CP86-329-001, and be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. A copy of the comments should also be sent at the same address to the Project Manager identified below.

A public scoping meeting will be held in Ohio for this project. The date, location, and format of the meeting will be identified in a subsequent Federal Register notice. Commenters are encouraged to nominate a potential scoping meeting location(s).

Additional information about the proposal, including detailed route maps of limited areas of the proposed route, is available from Mr. Kenneth Frye, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, at the above address or by telephone: (202) 357-9039.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-9060 Filed 4-21-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-280-000 et al.]

K N Energy, Inc., et al.; Natural Gas Certificate Filings

Take notice that the followings filings have been made with the Commission:

1. K N Energy, Inc.

[Docket No. CP87-280-000]

April 14, 1987.

Take notice that on April 6, 1987 K N Energy, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP87-280-000 a request pursuant to § 157.205 and 157.211 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate sales taps for 9 domestic and agricultural customers, under the certificate issued in Docket No. CP83-140-000, as amended, pursuant to the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes the construction and operation of sales taps to various end users which are located along its jurisdictional pipelines and are listed below:

Customer	Peak day volumes (Mcf)	Location	End-use
(1) Louis Dible	29	Thomas Co., KS	Irrigation.
(2) Marvin Albers	36	Thomas Co., KS	Irrigation.
(3) Ervin Nightengale	14	Scott Co., KS	Irrigation.
(4) James Nightengale	36	Scott Co., KS	Irrigation.
(5) Thomas Richardson, Jr.	24	Hamilton Co., NE	Irrigation.
(6) Nroman Ames	24	Wichita Co., KS	Irrigation.
(7) Nick Gillen	16	Wichita Co., KS	Irrigation.
(8) Donald Griebel	2	Valley Co., NE	Domestic.
(9) Hess Brothers	14	Scott Co., KS	Irrigation.

Applicant indicates that the total estimated cost of the proposed taps would be $8,550 and that the customers would reimburse a portion of this cost through the imposition of a connection charge which varies by state. Applicant states that the proposed sales taps are not prohibited by any of its existing tariffs and that the additional taps would have no significant impact on Applicant's peak day and annual deliveries.

Comment date: May 29, 1987 in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP79-396-004]

United Gas Pipe Line Company

[Docket No. CP79-400-002]

April 13, 1987.

Take notice that on April 8, 1987 Northern Natural Gas Company, Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, jointly referred to as Petitioners, filed in Docket Nos. CP79-396-004 and CP79-400-002, respectively, a petition to amend the Commission's order issued April 28, 1980, pursuant to section 7(c) of the Natural Gas Act, so as (i) to allow United to tender for exchange Pan-Alberta Gas Ltd. (Pan-Alberta) volumes purchased by third parties, and (ii) to authorize the addition of a number of best-efforts balancing receipt points for the mutual exchange of natural gas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by the order issued April 28, 1980, in Docket Nos. CP79-396-000 and CP79-400-000, they were authorized, *inter alia*, to transport and exchange natural gas.

Petitioners explain that pursuant to an amendment dated March 15, 1987 to the original gas exchange and transportation agreement dated August 10, 1979, Petitioners propose to allow United to tender for exchange certain volumes of natural gas from Pan-Alberta and purchased by third parties, and to establish ten additional receipt points for Northern and nineteen additional receipt points for United, all of which are considered as best-efforts, interruptible balancing points. Petitioners further state that no new facilities are required. Petitioners state that the proposed amendment is caused by a take-and-pay settlement between Northwest Alaskan Pipeline Company (Northwest Alaskan), Pan-Alberta, and United as described in Northwest Alaskan's January 27, 1987 tariff filing in Docket No. RP87-34-000. It is explained that as part of that settlement, United would aid Pan-Alberta in marketing volumes within the United States. Therefore, it is stated, United requires amendment of the United/Northern agreement to allow Pan-Alberta volumes to be exchanged to United's pipeline system for such marketing purposes.

Comment date: April 24, 1987 in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Northwest Pipeline Corporation

[Docket No. CP87-274-000]

April 14, 1987.

Take notice that on April 2, 1987, Northwest Pipeline Corporation (Northwest), P.O. Box 8900, Salt Lake City, Utah 84108-0900 filed in Docket No. CP87-274-000 a request pursuant to § 157.205 and § 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to add a new delivery point under authorization issued in Docket No. CP82-433-000 pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest states that by order issued January 10, 1986, in Docket No. CP86-177-000, 34 FERC ¶ 62,102, Northwest was authorized to transport, on an interruptible basis, up to 10,000 MMBtu's of natural gas per day for Chevron Chemical Company's (Chevron) predecessor of ownership, CPEX Pacific, Inc. (CPEX), from various receipt points on Northwest's system to a point of interconnection, the Deer Island Meter Station, with the facilities of Northwest Natural Gas Company near St. Helens, Oregon, pursuant to a transportation agreement dated October 30, 1985 (Agreement).

By amendatory orders issued June 20, 1986 and September 11, 1986, in Docket No. CP86-177-001, 35 FERC ¶ 61,376, and Docket No. CP86-177-004, 36 FERC ¶ 61,274, Northwest was authorized to add a second delivery point, the Finley Plant, and to increase the interruptible transportation volume for delivery from 10,000 MMBtu's per day to 25,000 MMBtu's per day, it is stated.

Northwest states that it has entered into an amendment, dated February 1, 1987 to the Agreement to add the Kennewick Plant as a third transportation point. Northwest further states that the proposed Kennewick Plant delivery point is an existing delivery point to Cascade Natural Gas Company in Benton County, Washington. Northwest indicates that the volumes delivered to the Kennewick Plant delivery point would be utilized by Chevron for fuel gas and feedstock for the manufacture fertilizer products.

Northwest states that the total quantity of natural gas to be transported for Chevron would not exceed the currently authorized maximum quantities of 25,000 MMBtu's per day until June 20, 1987 and 10,000 MMBtu's per day thereafter.

Northwest claims that it has sufficient mainline capacity to accomplish the deliveries at the proposed additional delivery point without detriment or disadvantage to any of its existing customers. Also, it is stated that the proposed delivery point addition is not prohibited by Northwest's existing tariff.

Comment date: May 29, 1987 in accordance with Standard Paragraph G at the end of this notice.

4. Southern Natural Gas Company

[Docket No. CP87-270-000]

April 14, 1987.

Take notice that on March 27 1987, Southern Natural Gas Company (Southern) P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-270-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to add a delivery point for service to Alabama Gas Corporation (Alagasco), an existing distribution customer, under the certificate issued in Docket No. CP82-406-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern proposes to construct and operate the metering and appurtenant facilities for service to Alagasco, which would redeliver the gas to an electric generating plant in Jefferson County, Alabama.

It is stated that Southern would be reimbursed by Alagasco for the construction cost, estimated at $300,000, while Southern would continue to own the facilities. It is asserted that deliveries through the proposed delivery point, where the facilities are designed to permit the delivery of up to 1,268 MMBtu per hour, would be within Alagasco's existing entitlement from Southern.

It is further asserted that the new delivery point would have no impact on Southern's peak day deliveries and that the addition of the facilities is not

prohibited by an existing tariff of Southern.

Comment date: May 29, 1987 in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules or Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission of its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-9024 Filed 4-21-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF84-377-002 et al.]

AEM Corp. et al., Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: May 22, 1987 in accordance with Standard Paragraph E at the end of this notice.

April 14, 1987

Take notice that the following filings have been made with the Commission.

1. AEM Corp.

[Docket No. QF87-377-002]

On March 27 1987 AEM Corp. (Applicant), of 1445 Palisades Drive, Pacific Palisades, California 90272, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed small power production facility was previously certified as a qualifying cogeneration facility on December 11, 1984, (Docket No. QF84-377-000, 29 FERC ¶ 62,254 (1984)). On November 28, 1986, Applicant filed an application for recertification of the qualifying cogeneration facility (Docket No. QF84-377-001) requesting a change in the location of the facility. The facility will be located approximately seven miles north of Colstrip, Rosebud County, Montana, adjacent to State Highway 39 in the northeast quarter of section 32, T3N, R41E. The facility will consist of a fluidized bed combustion boiler, a back pressure/condensing steam turbine generator, and related auxiliary equipment. Applicant states that the primary energy source of the facility will be waste in the form of subbituminous coal refuse and char which is produced as a by-product in an adjacent affiliated coal liquefaction plant. The net electric power production capacity of the facility will be 30 megawatts.

2. IVLP Corporation

[Docket No. QF85-253-001]

On March 26, 1987, IVLP Corporation (Applicant), c/o Catalyst Energy Development Corporation, of 180 Maiden Lane, 32nd Floor, New York, New York 10038 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

Recertification of the small power production facility is requested due to the change of ownership from Time Energy Systems, Inc. to Catalyst Energy Development Corporation through its 100% owned subsidiary, IVLP Corporation. All other characteristics of the facility remain as proposed in the original application.

3. Kamine Engineering Milford Cogen. Corporation

[Docket No. QF86-1045-001]

On March 27 1987 Kamine Engineering Milford Cogen. Corporation (Applicant), of 1620 Route 22 East, Union, New Jersey 07083 submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The recertification is requested due to a change in ownership from Riegel Products Corporation to Kamine Engineering Milford Cogen. Corporation and the facility configuration. The facility will consist of a combustion turbine-generator, a heat recovery steam generator equipped with supplementary firing, and two extraction-condensing steam turbine generators. The primary energy source for the facility will be natural gas. The maximum electric power production capacity of the facility will be 45.89 MW. The expected start-up date for the facility is November 1988.

4. Scrubgrass Power Corporation

[Docket No. QF87-346-000]

On April 1, 1987 the Scrubgrass Power Corporation of Suite 1050, 10 Post Office Square, Boston, Massachusetts 02109 (Applicant), submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Scrubgrass Township, Venango County near the

town of Kennerdell, Pennsylvania. The facility will consist of two circulating fluidized-bed combustion boilers and a steam turbine generator. The Applicant states that the primary energy source will be waste in the form of bituminous coal. The thermal energy output will be used in a wood kiln for lumber drying and in sewage sludge drying. The electric power production capacity of the facility will be 80 MW. Installation of the facility will begin in late 1987

Standards Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-9025 Filed 4-21-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $373,099,143.01, plus accrued interest, in alleged crude oil overcharge funds obtained from 42 firms. The OHA has determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Applications for refund must be filed by December 31, 1987 and should be addressed to: Subpart V Crude Oil Refunds, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2094 (Mann); 586-2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance wtih 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision sets forth the final procedures that the DOE has formulated to distribute crude oil overcharge funds obtained from 42 firms, listed in appendix A to the Decision, from judicial and administrative proceedings involving alleged crude oil violations. The funds are being held in an interest-bearing escrow account pending distribution by the DOE.

The OHA has decided to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, the Federal government, and injured purchasers of refined products. Refunds to the states will be distributed in proportion to each State's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers will be based on the number of gallons of petroleum products which they purchased and the extent to which they can demonstrate injury.

Applications for refund must be filed by December 31, 1987 and should be sent to the address set forth at the beginning of this notice. The information which claimants should include in their applications is explained in the Decision, which immediately follows.

Dated: April 15, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

April 15, 1987.

Names of Cases: A. Tarricone, Inc., *et al.*
Dates of Filing: August 21, 1986, *et al.*
Case Numbers: KEF-0049, *et al.*

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. *See* 10 CFR Part 205, Subpart V These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

The ERA has filed 42 Petitions for the Implementation of Special Refund Procedures for crude oil overcharge funds obtained from the firms whose names and OHA case numbers appear in Appendix A. To date, these 42 firms have remitted $373 million to the DOE, pursuant to court-approved settlements, DOE consent orders or remedial orders.[1] An additional $25 million in interest has accrued on that amount as of March 31, 1987. This Decision and Order establishes final procedures for distributing those funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR Part 205, Subpart V The Subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or cannot ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We have considered the ERA's requests to implement Subpart V procedures with respect to the monies received from the 42 firms listed in Appendix A and have determined that such procedures are appropriate.

I. The Proposed Decisions and Orders

In four separate Proposed Decisions and Orders (PD&Os) issued between September and December 1986, OHA established tentative procedures to distribute the funds involved in these 42 cases.[2] Appendix B lists the date of issuance and the Federal Register citation for the notices that were published soliciting comments on each PD&O. Since the issues involved are the same, we are combining all 42 cases into the present Final Decision and Order.

[1] Three firms, noted in Appendix A, are making yearly payments to the DOE as specified in their individual consent orders, and have an outstanding liability of $31,228,318.52. These funds will also be disbursed pursuant to the procedures established in this Decision. The DOE will give notice when such additional funds are received.

[2] One case which was included in the A. Tarricone PD&O, Peter L. Hirschburg/United Independent Oil, OHA Case Number KEF-0063, was subsequently dismissed pursuant to a request from the ERA. *See* October 1, 1986 letter from Thomas O. Mann, OHA Deputy Director, to Jerry F. Thompson, Director, ERA Office of Management and Information Systems.

The OHA tentatively concluded in the four PD&Os that the monies in these cases should be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (hereinafter referred to as the "MSRP"), issued in conjuction with Paragraph IV.B.1 of the Settlement Agreement approved by the court in *In re: The Department of Energy Stripper Well Exemption Litigation*, MDL No. 378 (D. Kan. July 7, 1986) (Order approving settlement). The MSRP announed that the DOE will employ a refund process for restitution of alleged crude oil violation amounts (held in escrow by the DOE or received in the future) using the special refund procedures codified at 10 CFR Part 205, Subpart V. Under that process, the OHA will accept and process refund applications from persons who claim they were injured by alleged crude oil violations. Up to 20 percent of the alleged crude oil violations amounts will be reserved to satisfy claims from injured parties. The MSRP calls for the remaining 80 percent of the funds to be disbursed to the State and Federal governments for indirect restitution. After all valid claims are paid, any remaining funds from the claim reserve will also be divided between the State and Federal governments. The Federal government's share of the funds will ultimately be deposited into the general fund of the Treasury of the United States.

In the PD&Os, the OHA proposed to reserve initially the full 20 percent of the alleged crude oil violation amounts for direct restitution to claimants. We also proposed to require applicants for refund to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged overcharges. The PD&Os stated that end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. Finally, we proposed to calculate refunds on the basis of a per gallon refund amount derived by dividing the crude oil overcharge monies received in the 42 cases by the total consumption of petroleum products in the United States during the period of price controls. Comments were solicited regarding the tentative distribution process set forth in the PD&Os.

II. Discussion of the Comments Received

In response to the PD&Os, the OHA received comments from the following: a group of 33 States and Territories of the United States; a group of nine ocean carriers which sail under foreign flags; a group of 32 foreign flag air carriers; Philip P. Kalodner, counsel for potential claimants; and four Indian tribes.[3] In general, these comments addressed the issues of the size of the fund reserved to satisfy the claims of injured parties, the timing of any refund payments, the standards for showing injury, and the calculation of refunds. We will now address each of these areas.

A. Size of Reserve and Timing of Payments

A number of commenters expressed opinions of the size of the reserve which the OHA should maintain for the payment of crude oil refund claims. Comments from potential claimants urged the OHA to reserve more than 20 percent of the funds to avoid a possible shortfall in the amount required for payments to injured persons. However, the parties to the Settlement Agreement represented to the court that 20 percent of the funds would be more than adequate to satisfy individual claims, and the settlement permits only downward adjustment of the reserve from the initial 20 percent figure. The States advocated that less than 20 percent of the crude oil Subpart V funds be reserved for claimants. Since the OHA has had no experience in the crude oil refund area under the MSRP we have no basis on which to adjust the reserve at this time.

We also received comments from potential applicants that addressed the timing of payments under the Subpart V process. Some commenters encouraged the OHA to consolidate all crude oil refunds into one lump sum payment, while others urged that we delay any refunds until all applications are received, in order to assure that the reserve is sufficient to satisfy all valid claims. It is too early in the crude oil Subpart V process for the OHA to be able to make any definitive statements about the timing of refunds. It is clear that we are faced with a "rolling" process in which moneys will flow into and out of the escrow account as new settlements are made and refunds determined and paid. The OHA will adhere to the Subpart V regulations which govern this process in order to give reasonable notice to the public of proposed refund procedures in each individual proceeding, to receive comments on those procedures, and to allow for the submission of applications for refund.

In a related area, one commenter suggested that once a claimant's purchase volumes are approved, its application should be deemed a continuing claim against all funds involving alleged crude oil violations, without a requirement that the claimant file additional information. At this early stage of our consideration of this type of refund application we are unable to accept this suggestion. We do not yet know whether additional information may be necessary to consider a claim for a particular fund in the future. However, we will notify claimants whose volumes are approved of any additional information needed in order to be considered for future refunds.

B. Standards for Showing Injury

The proposal in the PDOs which generated the most attention in the comments concerns the standards for showing injury in crude oil refund proceedings under Subpart V. Most potential applicants advocated the use of the well-established presumption in OHA refund proceedings of injury for end-users (ultimate consumers), provided their business was unrelated to the petroleum industry. Others submitted comments that urged the OHA to use presumptions of injury for resellers and retailers based on the type adopted in various major refiner refund proceedings. A number of comments urged the OHA to follow Subpart V precedents and permit claimants to use estimates to establish the number of gallons of petroleum products purchased. Related comments requested guidance on whether it was necessary for applicants to identify their suppliers in order to receive a refund. Finally, the States contended that Paragraph IV.B.1[4]

[3] In their comments, the Indian tribes stated that they should be included in any "second stage refund proceeding in this case" since "in many cases the Indians would receive no benefit from distributions to State governments." Comments submitted by Sonosky, Chambers & Sachse in McAlester Fuel Company, Case No. KEF-0045, at 1. The Indians' concerns, however, were addressed by a stipulation with the States entered by the United States District Court in Kansas as part of the Settlement Agreement. *See* Stipulation with the National Congress of American Indians, approved by June 12, 1986 (modifying Paragraph II. B.3.f.ii of the Settlement Agreement). According to the stipulation, the States will include the Indian tribes in distributing the benefits of the oil overcharge funds. The stipulation specifies that Indian tribal governments "are entitled to receive an appropriate equitable share of the benefits from State energy-related restitutionary programs to be funded under the Agreement" either through participation in general State programs, or through separate State-funded tribal restitutionary programs. *Id.* at 2.

[4] Paragraph IV.B.1 provides as follows:

B. Pending and Future Proceedings. DOE and the States agree:

Continued

of the Settlement Agreement bans the use of these presumptions in Subpart V proceedings, and requires end-user claimants to submit detailed evidence of injury in order to receive refunds for crude oil overcharges.

The OHA intends to apply relevant precedents to crude oil Subpart V proceedings. The States are incorrect in claiming that Paragraph IV.B.1 supports the position that no presumptions are to be permitted in crude oil Subpart V proceedings. To the contrary, Paragraph IV.B.1 specifically indicates that the settlement does not amend the Subpart V regulations. Section 205.282(e) of these regulations explicitly provides for the use of appropriate presumptions of injury in any Subpart V claim, and the OHA has employed presumptions in thousands of refund cases since 1981. Presumptions are reasonable because the Department has a duty to identify injured persons and, to the extent possible, to make direct refunds to them. *See Citronelle-Mobile Gathering Inc. v. Edwards*, 669 F.2d 717 723 (Temp. Emer. Ct. App. 1982); Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. No. 99–509, section 3003(b). To achieve this, refund procedures must take account of the complexity of oil overcharge proceedings, difficulty in actually proving an overcharge, passage of time, difficulties in locating records and relevant market data, and the agency's expertise in the structure of the industry and its functioning during the period of controls. The Settlement Agreement itself took account of these factors and did not require any party to the Stripper Well Litigation to provide proof of injury in order to receive a refund. At the same time, the settlement specified that there shall be a Subpart V claims process for injured persons who were not parties to the Stripper Well Litigation. The imposition of new standards for proof of injury would be inconsistent with this provision.

The States also claim that the *Tenneco* decision, cited in the Settlement Agreement, supports their position. To the contrary, the *Tenneco* decision, which established procedures for distributing funds remitted by that firm pursuant to a DOE consent order, incorporated several different kinds of presumptions. For example, firms that had already received refunds directly from Tenneco were presumed to be ineligible for further refunds from OHA. 9 DOE ¶ 82,538 at 85,201. Spot purchasers of Tenneco products were also presumed to be ineligible for refunds under Subpart V *Id.* End-users were not required to show they absorbed any overcharges in order to receive a refund. 9 DOE ¶ 82,538 at 85,202. Under the *Tenneco* standard an end-user had only to prove its volume of purchases from Tenneco in order to establish injury and receive a refund. *See e.g. Tenneco Oil Co./Defense Logistics Agency*, 9 DOE ¶ 82,588 (1982). This is the same standard that the OHA will apply in deciding crude oil refund claims submitted by end-users under Subpart V The States' position confuses the requirement of showing absorption of overcharges, which was applied to refiners and resellers in adjudicating refund claims under Subpart V for refined petroleum product overcharges and will be applied to the same firms in these proceedings, with the different standard applied to end-users. Refiners and resellers (unlike end-users of refined petroleum products) had the opportunity under DOE statutes and regulations to pass through overcharges in the prices of the same products resold within the same regulated industry. Far from supporting the States' position, the page of the *Tenneco* decision cited in the Settlement Agreement does not relate at all to end-user claimants, but deals instead with Entitlements Program participants, *i.e.* refiners, and allocation claimants.[5] *Id.* at 85,206. Thus, the language on which the States rely is irrelevant to the treatment of end-user claimants. *Id.*

The position advanced by the States is deficient as a matter of common sense as well. Under the presumptions we are adopting for crude oil refunds, end-users (ultimate consumers) whose businesses are unrelated to the petroleum industry need establish only the volume of petroleum products they purchased during the controls period to prove that they were injured by crude oil overcharges; they do not have to submit any further evidence to prove that they absorbed the overcharges. This policy serves important practical concerns. Analysis of the impact of crude oil overcharges on end-users is beyond the scope of a refund proceeding. *See Office of Enforcement: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983) at 88,308. End-users generally were not subject to price controls and were not required to keep records which justified selling price increases by reference to cost increases. If, for example, a brick manufacturer filed a claim for a refund on the fuel oil it purchased during the period August 1973 through January 1981, it is only reasonable to conclude that the firm was harmed by the amount of the crude oil overcharges allocated to the fuel oil which it used to manufacture bricks. Performing an economic analysis of the effect of the overcharges on the price of bricks would be duplicative.[6] Using the approach advocated by the States would be costly and inefficient and would mean that virtually no end-users would receive restitution for the crude oil overcharges they experienced. *See Greater Richmond Transit Co.*, 15 DOE ¶ 85,028 at 88,050. It would also be inconsistent with the mandate in the Settlement Agreement that the refund process be completed as expeditiously as possible. Settlement Agreement ¶ IV.B.4.

This standard for end-users has recently been described in a shorthand fashion as a "presumption of injury, but its use was based on the practical considerations noted above, a factor also underlying the standard for proving injury from antitrust violations (courts do not attempt to determine whether

1. *Modification of Policy.* In order to carry out its remedial authority under the ESA and EPAA, within 20 days following the date of the Approval Order, DOE will issue a modification of the Statement of Restitutionary Policy concerning Alleged Crude Oil Violations issued in June 21, 1985 (50 FR 27400; July 2, 1985). DOE will publish that modification (hereinafter the Modified Policy) in the **Federal Register**. The Modified Policy will state that the policy of DOE is to process applications for refunds pursuant to existing Subpart V regulations and that in such administrative proceedings involving Alleged Crude Oil Violations, OHA will continue to require that each claimant must affirmatively demonstrate that it has been injured by the alleged violation and that it should therefore receive a refund. *See e.g. Office of Special Counsel/Tenneco Oil Co.*, 9 DOE ¶ 82,538, at 85,206 (1982). The Modified Policy will state that individuals claiming such injury may file claims but OHA will not accept claims on behalf of classes, associations or trade groups. Nothing in the Modified Policy will preclude claimant from attempting to prove injury through the use of econometric evidence of the type that was submitted in the Stripper Well evidentiary proceedings before the OHA nor preclude OHA from using the findings contained in the Report of the Office of Hearings and Appeals, *In re The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan., filed June 21, 1985). Nothing contained herein may be construed to amend the Subpart V regulations.

In fact the page of the Tenneco decision cited in the Settlement Agreement specifically provides that allocation claimants "need not conclusively establish all of the elements of a violation on Tenneco's part and resulting injury on the claimant's part." 9 DOE at 85,206. Instead, "an applicant should submit enough information to demonstrate that its claim is not spurious, including the best available evidence of the injury which was sustained by the claimant." Id.

6 By contrast, petroleum, refiners and resellers had the opportunity under DOE statutes and regulations to pass through increased costs of refined petroleum products by raising the prices of the very same products that they charged to their customers. Regulated firms in the petroleum industry were required to keep records showing how their cost increases justified price increases, and the OHA has generally examined the question of absorption versus passthrough when considering large refund applications submitted by these firms.

first purchasers were able to "pass on" the effects of the violation).[7] *See* Additional Comments of Philip P Kalodner at 5–20, summarizing the developing of OHA caselaw regarding refunds to end-user claimants.

Three related matters deserve discussion. The first question is whether applicants must identify their suppliers and prove their exact gallonage to receive refunds. In view of the finding in the OHA Report that crude oil overcharges increased the prices to consumers of all domestic petroleum products, applicants need not identify their suppliers in order to receive refunds. OHA Report, Federal Energy Guidelines ¶ 90,507 at 90,620. For purposes of these crude oil overcharge proceedings, it matters only that the applicant purchased petroleum products in the United States market during the period August 1973 through January 1981. Following OHA precedent, reasonable estimates of purchase volumes will be permitted.

The second question is whether the limited presumptions of injury for resellers and retailers used for smaller claims in recent refined product Subpart V cases, such as *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986), should be permitted in crude oil refund proceedings. These presumptions will *not* apply here. Reseller and retailer applicants for crude oil refunds must make a specific showing of injury. 51 FR at 27901. There is an important distinction between product refund cases under Subpart V and crude oil cases which is particularly relevant to this issue. In a case like *Marathon*, in which refunds are made for alleged overcharges in sales of refined products, the overcharges were confined to purchasers of Marathon products. This we concluded produced a change in the competitive position of resellers of Marathon products, and the presumptions of injury for Marathon resellers reflect this fact. By contrast, because of the crude oil allocation program, market prices for refined products generally increased when crude oil overcharges occurred, and all resellers—regardless of their suppliers—were therefore affected by crude oil overcharges. Accordingly, a reseller or retailer must submit evidence to show the extent to which it absorbed crude oil overcharges. Under the circumstances, resellers and retailers will be permitted to use presumptions to show they were injured in crude oil refund cases. These claims of applicants may, however, use the type of econometric evidence that was submitted to the OHA in the Stripper Well proceeding to show that they were injured by crude oil overcharges. 51 FR at 27901; Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. No. 99–509, section 3003(b)(2)

Finally, we should note that utilities have been permitted to receive refunds in Subpart V refund proceedings only to the extent that they notify the applicable state regulatory body and pass on the entirety of the refund to its retail customers. For example, in *A. Tarricone, Inc./Consolidated Edison Company of New York, Inc.*, 15 DOE ¶ 85,038 (1986), the utility received a refund based upon its purchases of product after it had certified "that as a regulated utility it will notify [the State utility commission] of any refund received and will also pass such refund on to its retail customers on a dollar for dollar basis." 15 DOE at 88,074.[8] To receive a refund in any crude oil refund proceeding, a regulated utility will have to submit a similar certification.

C. Calculation of Refunds

The final matter addressed by the commenters concerns the calculation of refund amounts in crude oil cases. The PD&Os contemplated using a volumetric method for allocating the overcharges among each gallon of refined petroleum products sold in the United States during the period of federal price controls. That allocation would be made by dividing crude oil overcharge moneys ("the numerator") by the total consumption of petroleum products in the United States during the period of price controls ("the denominator"). 51 FR at 29691. *See Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986); *A. Tarricone, Inc.*, 51 FR 35275 (October 2, 1986) (proposed decision).

The States maintained that overcharges from each alleged crude oil violation should be presumed to be spread equally among all gallons of petroleum products sold in the specific violation period set forth in each consent order under consideration. This suggestion is not workable, since it adds enormous complexity with little gain in accuracy. Refund applicants would then be required to produce separate purchase records tailored to each of dozens or even hundreds of individual refund proceedings, and consolidated expedited analysis and payment of claims would be an impossibility.

Most other commenters generally supported the volumetric method which allocated the overcharges among all refined petroleum products sold in the United States during the period of price controls.[9] We have determined that, based on the virtues of this approach, it should be followed in these cases. The volumetric approach presumes that alleged crude oil violations were spread equally and therefore increased the price of all gallons of petroleum products, rather than attempting to tie violations to any specific transactions. In fact, nearly all of the funds involved in these proceedings were obtained through consent orders in which no actual violations were conceded. Moreover, during the period of price controls the Entitlements Program widely dispersed the impact of crude oil overcharges among domestic refiners, and caused the market price of all petroleum products to increase. *See generally OHA Report, In re: The Department of Energy Stripper Well Exemption Litigation*, Fed. Energy Guidelines ¶ 90,507 For these reasons, the volumetric method offers the fairest and most reasonable method for apportioning the crude oil overcharges involved over the products sold in the United States during the period of controls. The volumetric approach is also efficient, having been used by the OHA in hundreds of prior Subpart V refund proceedings involving refined petroleum products, and we conclude that it is equally suited for the crude oil area.

III. Crude Oil Refund Procedures

After considering the comments received, we have concluded that the $373 million received in these 42 proceedings, plus interest, should be distributed in accordance with the procedures discussed above and in the PD&Os. Since we have not yet had sufficient experience in paying refunds for alleged crude oil violations, we have decided at this time to reserve the full 20 percent of the alleged crude oil violation amounts for direct refunds to injured

[7] *See* Hanover Shoe, Inc. v. United Machine Corp., 392 U.S. 481 (1968); Illinois Brick Co. v. Illinois, 431 U.S. 720 (1977). This approach to end-user claims has also been applied to private enforcement actions brought under Section 210 of the Economic Stabilization Act. Eastern Airlines, Inc. v. Atlantic Richfield Co., 609 F.2d 497 (Temp. Emer. Ct. App. 1979).

[8] That Terricone case involved a different DOE consent order from the one which is subject to the present decision.

[9] Many commenters suggested various modifications which could be made to the volumetric calculations. These comments were addressed in the April 6, 1987 notice analyzing general comments the OHA received about procedures for processing refund applications in crude oil refund proceedings. 52 FR 11737 (April 10, 1987). These matters were not addressed in the four PD&Os, and we will calculate the volumetric amount in the present cases by using for the numerator only the money available in the 42 subaccounts in question.

claimants. The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used to evaluate claims based on alleged refined product overcharges pursuant to 10 CFR Part 205, Subpart V *MAPCO Inc.*, 15 DOE ¶ 85,097 (1986); *Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986).

As in non-crude oil cases, applicants will be required to document their purchase volumes and demonstrate that they were injured. *See Id.* Following Subpart V precedent, reasonable estimates of purchase volumes may be submitted. *Greater Richmond Transit Co.*, 15 DOE ¶ 85,028 (1986). Applicants who were end-users (ultimate consumers) of petroleum products whose businesses are unrelated to the petroleum industry and who were not subject to the DOE price regulations are presumed to have absorbed rather than passed on alleged crude oil overcharges, and need not submit any further evidence of injury beyond volumes of product purchased in order to receive a refund. *Id.* It is not necessary for applicants to identify their suppliers of petroleum products in order to receive a refund. In view of the difference between firm-specified refined product refund cases and crude oil refund proceedings under Subpart V, discussed in Section II.B, *supra*, there is no basis for using the presumption that spot purchasers were not injured by crude oil overcharges. Resellers and retailers of petroleum products must submit detailed evidence of injury, and may not use presumptions of injury established by the OHA in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type used in the OHA Report to the District Court in the Stripper Well litigation, Federal Energy Guidelines ¶ 90,507 (June 19, 1985), and the OHA intends to use the final and April 1, 1985 draft Reports in evaluating refund applications submitted under Subpart V Parties to MDL 378 who received refunds from one of the escrows established in the settlement have waived their rights to apply for crude oil refunds under Subpart V

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the money available in each subaccount by the total consumption of petroleum products in the United States during the period of price controls.[10] The total volumetric amount for these proceedings is $0.000185. Interest through March 31, 1987, would increase that amount to $0.000197 The deadline for filing refund applications will be December 31, 1987 Depending on the type of refund applications received, we may establish a minimum refund amount for eligible claimants. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 82,225 (1982).

To receive a refund from these settlement funds, a petroleum purchaser must file an application for refund. No application forms will be provided. Instead, applicants should submit the material outlined below in the form of a letter. The letter should be clearly labelled "Application for Crude Oil Refund" and should include the following information:

(1) Identifying information including (a) the applicant's name, (b) the applicant's address, (c) the applicant's social security number or employer number, (d) an indication whether the applicant is a corporation, (e) the name and telephone number of a person to contact for additional information, and (f) the name and address of the person who should receive the refund check;

(2) A short description of the applicant's business and use of petroleum products. If the applicant did business under more than one name or a different name during the period of price controls, the applicant should list these names;

(3) A statement identifying the petroleum products which the applicant purchased during the period August 19, 1973 through January 27 1981, the number of gallons of each product purchased, and the total number of gallons on which applicant bases its claim;

(4) An explanation of how the applicant obtained the volume figures above, and an explanation of its method of estimation if the applicant used estimates to determine its purchase volumes;

(5) A statement that neither the applicant, its parents, subsidiaries, affiliates, successors nor assigns has waived any right it may have to receive a refund in these cases;

(6) If the applicant is not an end-user whose business is unrelated to the petroleum industry, a showing that the applicant was injured by the alleged overcharges (i.e. that the applicant did not pass the overcharges through to its own customers); and

(7) If the applicant is a regulated utility, a certification that it will notify the state utility commission of any refund received and that it will pass on the entirety of its refund to its retail customers.

The application should be typed or printed and mailed to the following addresses: Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence avenue SW., Washington, DC 20585.

Applicants may be required to submit additional information to document their refund claims. Any applicant that has already filed a refund application in crude oil refund proceedings need not file another application; that application will be deemed to be filed in these proceedings.

The remaining 80 percent of the funds—$296,494,628.89 in principal plus $19,660,292.47 in interest through March 31, 1987—will be immediately disbursed to the State and Federal governments for indirect restitution.[11] We will direct the DOE's Office of the Controller to segregate this amount and distribute $74,123,657.22 in principal plus $4,915,073.12 in interest to the States and $222,370,971.67 in principal plus $14,745,219.35 in interest to the Federal government.[12] Thus, as of March 31,

[10] We will use the estimate that 2,020,997,335,000 gallons of petroleum products were consumed in the United States during the period August 1973 through January 1981. *Mountain Fuel*, 14 DOE at 88,868 n.4 (1986).

[11] As noted in the PD&O entitled Brownlie, Wallace, Armstrong and Bander, Inc., *et al.*, 51 F.R. 41530 (November 17, 1986), the state and Federal governments have already received their 80 percent share of the funds involved in the four cases consolidated in the PD&O. *See Stripper Well Exemption Litigation*, 14 DOE ¶ 85,382 (1986). The entire amount remitted by those four firms, $2,480,856.90 plus $476,623.72 interest, therefore has been excluded in calculating the 80 percent portion of the funds to be distributed in this determination to the state and Federal governments.

[12] This distribution reflects a ratio of 25 percent to the State governments and 75 percent to the Federal government. Under the terms of the Stripper Well Settlement Agreement, the states received an advance of $200 million from funds which would otherwise have been disbursed to the DOE. In order to reimburse the DOE for one-half of the advance, the Settlement Agreement provides that for amounts which the OHA transfers to the State and Federal governments in excess of $100 million, the DOE shall receive 75 percent and the states shall receive 25 percent. This arrangement shall continue until the OHA has distributed the next $400 million. Settlement Agreement, Paragraph II.B.3.c.ii. The first transfer of funds to the States by the OHA occurred on August 7, 1986, when the OHA transferred $104,061,950.61 to the State and Federal governments. Stripper Well Exemption Litigation, 14 DOE ¶ 85,382 (1986). The $4 million in excess of $100 million was disbursed 75 percent to the Federal government and 25 percent to the states. Under the Agreement, the next $396 million, including the $316 million disbursed to the states and Federal government under this Decision and Order, will be disbursed using the 75–25 percent formula.

1987 the total refund to the states is $79,038,730.34, and the total refund to the Federal government is $237,116,191.02. Each state's share of the funds is set forth in the Settlement Agreement and is based on each State's consumption of petroleum products during the period of price controls.[18] These funds are subject to the same limitations and reporting requirements as all other crude oil moneys received by the States under the settlement.

It is Therefore Ordered That:

(1) Applications for Refund from the crude oil overcharge funds remitted by the firms identified in Appendix A to this Decision and Order may now be filed.

(2) All applications submitted pursuant to paragraph (1) above must be filed no later than December 31, 1987.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer as provided in paragraphs (4) and (6) below 80 percent of the total current net equity as of March 31, 1987, from each of the subaccounts (within the Deposit Fund Escrow Account maintained by the DOE at the Treasury of the United States) listed in Appendix A to this Decision and Order, except for the following four accounts: Brownlie, Wallace, Armstrong and Bander; Cordele Operating Company; Henry H. Gungoll Associates; and Juniper Petroleum Corporation.

(4) The Director of Special Accounts and Payroll shall transfer $79,038,730.34 of the funds obtained pursuant to paragraph (3) above into a subaccount denominated "Crude Tracking-States," Number 999DOE003W0. The Director of Special Accounts and Payroll shall disburse to each state its share of that amount, determined pursuant to the calculation of ratios for distribution to States and territories set forth in the Settlement Agreement, plus interest from April 1, 1987 to the date of disbursement. Those disbursements shall be accomplished pursuant to instructions previously received from each State in the Stripper Well Exemption Litigation refund proceeding. From the disbursement to the Virgin Islands, the Director shall deduct $170,800.00, and from the disbursement to Guam, the Director shall deduct $1,600.00. This $172,400.00 shall be transferred into a subaccount denominated "Warner Amendment Adjustment," Number BBBBBBBBBB.

(5) The funds distributed pursuant to paragraph (4) above are subject to the same limitations and reporting requirements as are all other crude oil moneys received by the States under the Settlement Agreement.

(6) The Director of Special Accounts and Payroll shall transfer $237,116,191.02 of the funds obtained pursuant to paragraph (3) above into a subaccount denominated "Crude Tracking-Federal," Number 999DOE002W0.

(7) This is a final order of the Deaprtment of Energy.

Dated: April 15, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX A

A. Tarricone, Inc., *et al. Case Nos. KEF-0049, et al.*

OHA case No.	Name of firm	Consent order No.	Date of filing	Principal remitted as of 3/31/87
KEF-0049	A. Tarricone, Inc	N00M90025Z	8/21/86	$255,000.00
KEF-0050	Alliance Oil and Refining	650X00300Z	8/21/86	2,500,000.00
HEF-0488	Andrus Interest, Inc	650X00340Z	3/20/84	[1] 1,590,000.00
KEF-0051	Atlantic Richfield Co	RARE00301Z	8/21/86	320,288,898.71
KEF-0052	Avant Petroleum, Inc	6C0X00284Z	8/21/86	1,700,000.00
KEF-0053	Bass Enterprises Production Company	650C00376Z	8/21/86	1,679,352.37
KFX-0127	Brownlie, Wallace, Armstrong & Bander	810C00362Z	2/26/85	[2] 468,750.00
KEF-0078	City of Long Beach, Cal	999C90018Z	9/18/86	1,006,090.86
KEF-0054	Coastal Petroleum Refiners	6C0X00305Z	8/21/86	500,000.00
KEF-0055	Condor Operating Company	670C00233Z	8/21/86	260,960.54
KFX-0128	Cordele Operating Company	600C20052Z	2/26/85	[3] 1,300,000.00
KEF-0056	Corpening Enterprises	600C00105Z	8/21/86	101,161.74
KEF-0057	Cox, Edwin L. and Berry R	650C00366Z	8/21/86	1,206,698.00
KEF-0058	Crestmont Oil and Gas	950C00057Z	8/21/86	237,811.94
HEF-0498	Crysen Corporation	940X00234Z	3/26/84	[4] 4,700,000.00
KEF-0059	Dorchester Exploration	6C0C00676Z	8/21/86	243,000.00
KEF-0060	Double U Oil Company/J.E. Guenther	610C00467Z	8/21/86	250,000.00
KEF-0037	Energy Reserves Group	740C01203Z	5/13/86	488,515.85
KEF-0061	Enstar Corporation	6C0C00257Z	8/21/86	3,000,000.00
KEF-0062	Franks Petroleum, Inc	650C00375Z	8/21/86	350,000.00
KEF-0043	Giant Industries, Inc	N00S90049Z	6/30/86	354,927.11
KEF-0035	Grigsby Oil and Gas	641C00011Z	4/29/86	1,148,189.55
KFX-0129	Henry H. Gungoll Associates	660C00387Z	3/18/85	[5] 143,980.81
KEF-0064	IU International and Texfel Petroleum	960C00025Z	8/21/86	975,000.00
KEF-0065	J.M. Petroleum Corp	6A0X00318Z	8/21/86	270,000.00
KEF-0066	Jones Drilling Corp	660C00494Z	8/21/86	285,608.89
KFX-0130	Juniper Petroleum Corp	999C90001Z	4/12/85	[6] 568,126.09
KEF-0067	Kilroy Company of Texas	650C00368Z	8/21/86	180,000.00
HEF-0295	Langham Petroleum and Development, Inc	640X00433Z	10/13/83	[7] 6,895,968.48

[18] Pursuant to an April 11, 1986 letter agreement between the ERA and the Virgin Islands and Guam, we are withholding $170,800.00 from the refund to the Virgin Islands and $1,600.00 from the refund to Guam. These amounts were inadvertently overpayed to the Virgin Islands and Guam in February 1983 when distributions of oil overcharge funds were made to the states and territories pursuant to section 155 of the Further Continuing Appropriations Act of 1982, Pub. L. No. 99-377 (the Warner Amendment). We will direct the DOE's Office of Controller to deposit the withheld amounts into a separate subaccount pending a further order from the OHA.

APPENDIX A—Continued

A. Tarricone, Inc., *et al. Case Nos. KEF-0049, et al.*

OHA case No.	Name of firm	Consent order No.	Date of filing	Principal remitted as of 3/31/87
KEF-0079	Liberty Trading Co., Inc	6C0X00275Z	9/19/86	100,000.00
KEF-0068	Lunday Thagard Oil Corp	N00S98076Z	8/21/86	1,971,000.00
KEF-0069	Mar Low Corporation	640X00254Z	8/21/86	165,595.76
KEF-0045	McAlester Fuel Company	662C00547Z	6/30/86	9,663,400.36
KEF-0070	McMoran Oil and Gas Company	650C00373Z	8/21/86	380,000.00
HEF-0576	McTan Corporation	6A0X00266Z	4/3/85	100,000.00
KEF-0071	Minro Oil Company	650X00351Z	8/21/86	2,722,402.30
KEF-0072	Oxy Petroleum	920C00032Z	8/21/86	2,717,320.75
HEF-0569	Pyro Energy Corporation	610C00052Z	3/11/85	210,000.00
KEF-0073	Sabine Corporation	650C00370Z	8/21/86	190,000.00
KEF-0075	Southwestern Refining Co	888S00226Z	8/21/86	316,382.90
KEF-0076	Texacota, Inc	6C0C00255Z	8/21/86	315,000.00
KEF-0077	Texas Pacific Oil Company	6A0C00257Z	8/21/86	1,300,000.00
	Total			$373,099,143.01

[1] Total liability for Andrus is $5,300,000.00. Amount still owed is $3,710,000.00.
[2] 80% of this amount has already been distributed to the state and federal governments.
[3] *See* note 2.
[4] Total liability for Crysen is $7,114,287.00. Amount still owed is $2,414,287.00.
[5] *See* note 2.
[6] *See* note 2.
[7] Total liability for Langham is $32,000,000.00. Amount still owed is $25,104,031.52.

APPENDIX B

A. Tarncone, Inc., et al., Case Nos. KEF-0049, et al.

Name of proposed decision and order	Date of issuance	Federal Register citation
A. Tarncone, Inc., et al.	9/23/86	51 FR 35275 (October 2, 1986).
McAlester Fuel Company.	10/27/86	51 FR 40498 (November 7 1986).
Brownlie, Wallace, Armstrong and Bander, Inc., et al.	11/7/86	51 FR 41530 (November 17 1986).
Andrus Interest, Inc., et al.	11/20/86	51 FR 44373 (December 9, 1986).

[FR Doc. 87-9011 Filed 4-21-87; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for refunding to adversely affected parties the $2,750,000 obtained as a result of a consent order between the DOE and Pyrofax Gas Corporation. The funds are being held in escrow following the settlement of an enforcement proceeding brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund of a portion of the Pyrofax consent order funds must be filed within 90 days of this notice's publication in the **Federal Register.** Applications should be filed in duplicate, and should refer to Case Number HEF-0157 Address applications to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Decision and Order set out below. The Decision concerns the disbursement of the $2,750,000 that the DOE obtained pursuant to a consent order with Pyrofax Gas Corporation. The Decision finalizes the refund procedures that were outlined in a Proposed Decision and Order issued October 16, 1986. 51 FR 37,641 (October 23, 1986).

Pyrofax remitted the funds to settle all claims and disputes with the DOE regarding the manner in which it applied the federal price regulations to its propane sales between November 1, 1973, and January 27 1981. The DOE audit that uncovered Pyrofax's alleged pricing violations identified 129 firms that Pyrofax's practices may have injured. To apply for refunds, these identified purchasers should submit completed copies of the suggested application form appended to the Decision. Pyrofax customers not identified in the DOE audit may also apply for refunds. Unidentified customers should submit monthly schedules of their Pyrofax propane purchasers in addition to the suggested refund application form. All applicants whose claims exceed $5,000 must, in addition, prove that they did not pass along the alleged overcharges to their own customers.

As the Decision and Order published with this Notice indicates, customers who purchased propane from Pyrofax between November 1, 1973, and January 27 1981, may now apply for refunds. Applications will be accepted provided they are filed no later than 90 days after publication of this Decision and Order in the **Federal Register.** The specific information required in an Application for Refund is explained in the Decision and Order.

Dated: April 14, 1986.
George B. Breznay,
Director, Office of Hearings and Appeals.
April 14, 1987

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Petitioner: Pyrofax Gas Corporation.
Date of Filing: October 13, 1983.
Case Number: HEF-0157

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V On October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Pyrofax Gas Corporation (Pyrofax). This Decision and Order contains the procedures which the OHA has established to distribute funds received pursuant to that consent order.

I. Background

Pyrofax, headquartered in Houston, Texas, is a "reseller-retailer" of propane as that term was defined in 10 CFR 212.31. A DOE audit of Pyrofax's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F Subsequently, Pyrofax signed a consent order with the DOE. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. In addition, the consent order states that Pyrofax does not admit that it violated the regulations.

The DOE audit alleged that between November 1, 1973, and January 27 1981, Pyrofax committed possible pricing violations in its propane sales. The consent order, signed on March 23, 1981, settled all disputes between the DOE and Pyrofax regarding these alleged violations. The consent order required Pyrofax to deposit $2,750,000 into an interest-bearing escrow account for ultimate distribution by the DOE. Of this amount, $2,183,000 represented alleged overcharges to Pyrofax customers identified in the DOE audit. The remaining $567,000 represented alleged overcharges to individuals not directly identified in the audit—primarily Pyrofax home delivery customers. Pyrofax remitted the total sum of $2,750,000 on July 31, 1981.[1]

The OHA outlined tentative procedures for distributing the Pyrofax consent order fund in a Proposed Decision and Order issued October 16, 1986. 51 FR 37,641 (October 23, 1986). In order to notify all potentially affected parties, the Proposed Decision was published in the **Federal Register**. In addition, copies of the Proposed Decision were mailed to Pyrofax customers identified in the ERA audit, various petroleum dealers' associations, and others who had expressed interest in the proceeding. The OHA allowed 30 days for interested parties to comment on the proposed refund procedures.

Comments regarding the distribution of any funds that remain after injured parties have received refunds were submitted collectively on behalf of the States of Arkansas, Delaware, Iowa Louisiana, North Dakota, Rhode Island, and West Virginia. Since this Decision concerns only compensation to parties that Pyrofax's alleged overcharges injured directly, those comments will not be addressed individually. After all claims have been processed, any remaining funds will be distributed in accordance with the recently enacted Petroleum Overcharge Distribution and Restitution Act of 1986. *See* H.R. 5300, Title III, 99th Cong., 2d Sess., Cong. Rec. H11319-21 (daily ed. October 17 1986). Since no other comments were received, the refund procedures outlined in the Proposed Decision will be adopted.

II. Presumptions Used To Formulate Refund Procedures

The DOE procedural regulations set forth general guidelines for OHA to follow in devising a plan to distribute funds received following an enforcement proceeding. 10 CFR Part 205, Subpart V These guidelines, called Subpart V may be used to compensate persons injured by a firm's violations of the Mandatory Petroleum Price Regulations. The Subpart V process is used to determine both who the firm's alleged pricing violations injured, and the extent of their injuries. For a detailed description of Subpart V procedures, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

In implementing the Subpart V guidelines, we must consider whether Pyrofax propane purchasers were injured by the alleged overcharges, or whether they passed through the overcharges to their own customers. To help determine the level of a purchaser's injury without incurring inordinate expenses, we will adopt two rebuttable presumptions and two findings regarding injury, discussed below. (DOE procedural regulations specifically authorize the use of presumptions and findings in refund cases. *See* 10 CFR 205.282(e).)

The first presumption is that Pyrofax customers claiming small refunds were injured by the alleged overcharges. Without this presumption, each applicant would have to sort through records dating as far back as 1973 to gather proof that it absorbed the alleged overcharges. The cost to the applicant of gathering this information and the OHA of analyzing it, could exceed the actual refund amount. Therefore, applicants entitled to refunds under $5,000 will not need to submit detailed proof of injury. *See Office of Special Counsel*, 11 DOE ¶ 85,226 (1984) (*Conoco*), and cases cited therein.

The second presumption is that Pyrofax's alleged overcharges did not injure spot purchasers. (Spot purchasers are those who were not regular Pyrofax customers.) Spot purchasers, because they were not obliged by contract to purchase fixed volumes from Pyrofax, had considerable discretion as to when and where they bought their propane. Thus, a spot purchaser would not have bought Pyrofax propane unless it felt sure that it could recover all of its costs in a subsequent resale. *See Vickers*, 8 DOE at 85,396-97 A spot purchaser, therefore, will not receive a refund unless it presents evidence to both rebut this presumption and establish the extent of its injury.

In addition, we find that end users (those who actually used Pyrofax propane for purposes other than resale) were injured by the alleged overcharges. Since end users were not subject to price controls, they were not required to keep records showing whether or not they passed through the Pyrofax propane cost increases to their own customers. Thus, an analysis of the impact of the alleged overcharges on end users is beyond the scope of this proceeding.

Finally, we find that public utilities, agricultural cooperatives, or other firms whose prices are regulated by government agencies or cooperative agreements need not submit detailed proof of injury. Such firms would have routinely passed through price increases to their customers. Likewise, their customers would share the benefits of cost decreases resulting from refunds. Such firms applying for refunds should submit plans explaining both how their

[1] As of March 31, 1987, the Pyrofax escrow account contained $3,605,943, including accrued interest.

customers will benefit from the refund, and how they will alert the appropriate regulatory body or membership group to funds received. Such firms should note, however, that their sales to nonmembers will be treated the same as sales by any other reseller.

The findings and rebuttable presumptions discussed above will apply equally to the Pyrofax customers identified in the DOE audit, and to those purchasers whom the audit did not identify. The methods for refunding money to identified and unidentified customers are explained below.

III. Refund Procedures for Identified Purchasers

As in previous cases, we will use the information in the audit files to distribute part of the consent order fund. The audit files identify 129 Pyrofax customers and the portion of the escrow account to which each is entitled. Based on a review of the audit files, we have determined that some of these identified customers are spot purchasers. As previously explained, spot purchasers, listed in Appendix 2, will not be eligible for refunds unless they can prove injury. The remaining identified purchasers, listed in Appendices 1 and 3, may apply for refunds as described below.

To apply for a refund, an identified purchaser must submit two completed copies of a refund application form (see the suggested form in Appendix 4). In addition, an identified reseller or retailer of Pyrofax propane claiming a refund greater than $5,000 must submit detailed proof that it absorbed the alleged overcharges and, furthermore, was injured by them. Generally, we require such a firm to demonstrate (i) that it maintained a "bank" of unrecovered costs, and (ii) that market conditions did not permit it to pass on the increased costs to its customers in the form of higher prices. Alternatively, such a firm may choose to limit its claim to $5,000. *See Vickers*, 8 DOE at 85,396. *See also Office of Enforcement*, 10 DOE ¶85,029 at 88,125 (1982).

IV. Refund Procedures for Other Purchasers

The individuals who purchased Pyrofax propane for home heating purposes were not identified in the DOE audit. These home delivery customers, and other as yet unidentified purchasers who believe they were injured by Pyrofax's alleged overcharges, may apply for refunds under the "volumetric method." Under this method, a successful claimant's refund is computed by multiplying a factor called the volumetric by the number of gallons of Pyrofax propane the claimant purchased. The volumetric factor in this case is $0.00757 per gallon, representing the average dollar refund an applicant may receive per gallon of Pyrofax propane it purchased.[2]

A Pyrofax customer applying for a refund under the volumetric method must submit two copies of both a refund application (see the suggested form in Appendix 4) and a monthly schedule of the number of gallons of Pyrofax propane it purchased between November 1, 1973 and January 27 1981.[3] As required of identified purchasers, unidentified resellers or retailers of pyrofax propane whose claims exceed $5,000 must submit the detailed proof of injury discussed in section III above.

All applicants should be aware that, as in previous cases, only claims for at least $15 plus interest will be processed. We have adopted this minimum because the cost of processing claims for smaller amounts outweighs the benefits of restitution. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). In the unlikely event that valid claims exceed the funds in the escrow account, claims will be prorated.

V. Summary of Refund Application Procedures

We will now accept refund applications from individuals who purchased Pyrofax propane between November 1, 1973, and January 27 1981. The information each applicant must submit is summarized below:

(1) Each applicant should submit two completed copies of the suggested refund application form in Appendix 4, or its equivalent.

(2) If the applicant was not identified in the audit files, it must submit two copies of a monthly schedule of the number of gallons of Pyrofax propane it purchased between November 1, 1973, and January 27 1981. (Home delivery customers may, instead, submit tables of the number of dollars they paid Pyrofax for home heating each month.)

(3) All resellers and retailers of Pyrofax propane whose claims exceed $5,000 must submit proof, as explained in this Decision, that they absorbed the alleged overcharges. (Agricultural cooperatives, public utilities and end users of Pyrofax propane whose claims exceed $5,000 need not submit proof of injury.)

It is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Pyrofax Gas Corporation pursuant to the Consent Order executed on March 23, 1981, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: April 14, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX 1—PYROFAX GAS CORPORATION

First purchasers	Share of settlement[1]
ACF Industries, 750 Third Avenue, New York, New York 10017	$202
Accura Tool Company, Post Office Box 153, Columbiana, Ohio 44408	5,739
Agway Petroleum Corporation, Post Office Box 706, Syracuse, New York 13221	2,971
Allied Chemical Corporation, Columbia Rd. & Park Ave., Morristown, New Jersey 07960	1,495
Allied New Hampshire Gas Co. (Northern Utilities), Post Office Box 508, Portsmouth, New Hampshire 03801	4,615
American Bread Company, 702 Murfreesboro Road, Nashville, Tennessee 37210	76
American Hoechst Corporation, Post Office Box 1400, Greer, South Carolina 29652	5,866
Anchor Hocking Glass Corporation, 109 N. Broad Street, Lancaster, Ohio 43130	3,892
Armco Steel Corporation, 703 Curtis Street, Middletown, Ohio 45043	31,747
Armstrong Cork, Concord Street, Lancaster, Pennsylvania 17604	28,822
Ashland Gas Service, Post Office Box 391, Ashland, Kentucky 41101	1,906
Athens Oil Company, 77 Elmwood, Athens, Ohio 45701	622
Auburn Steel Co., Inc., 635 West 11th Street, Auburn, Indiana 46706	5,719
Baxter Kelly & Faust, 215 Commerce Boulevard, Anderson, South Carolina 29621	155
Bechtel Power Corporation, Attention: Louis Nassar, P.O. Box 3965, San Francisco, California 94119	18,708

[2] We computed the volumetric factor by dividing the $2,750,000 escrow principal amount by the estimated 363,210,214 gallons of propane Pyrofax sold during the consent order period.

[3] We recognize that Pyrofax's former home delivery customers may not have records of the number of gallons of Pyrofax propane they purchased. Therefore, home delivery customers may submit tables listing the amount of money they paid Pyrofax for home heating propane. Using this information and the average prevailing price of propane during the consent order period, we will attempt to compute the number of gallons the home delivery customers purchased from Pyrofax.

APPENDIX 1—PYROFAX GAS CORPORATION—Continued

First purchasers	Share of settlement[1]
Berks Welding, Stevens Rd. & Portland St., West Conshohocken, PA 19428	1,978
Berkshire Gas Company, 115 Cheshire Road, Pittsfield, Massachussets 01201	13,443
Bethlehem Steel Corporation, Martin Tower, Bethlehem, Pennsylvania 18016	2,041
Cabot Corporation, Satellite Division, 125 High Street, Boston, Massachusetts 02110	5,106
Cargill, Inc., Gainesville, Georgia 30543	6,475
Carr Lowery Company, 2201 Kloman Street, Baltimore, Maryland 21203	7,016
Celotex Corporation, W. Pittston, Pennsylvania 18643	1,343
Central Foundry Company, Post Office Box 188, Holt, Alabama 35404	225,629
Champion Building Products, One Champion Plaza, Stamford, Connecticut 06921	153
Cherokee Brick & Tile Company, Post Office Box 4567, Macon, Georgia 31208	2,163
City of Harrisburg Arkansas, Harrisburg, Arkansas 72432	961
City of Lebanon Tennessee, Lebanon, Tennessee 37087	694
City of Tallahassee Florida, Tallahassee, Florida 32300	2,951
Collier Gas Company, 1016 S. Madison Street, Whiteville, North Carolina 28472	18
Connecticut Natural Gas Co., 100 Columbus Boulevard, Hartford, Connecticut 06103	23,153
Consolidated Gas Transmission Corp., 445 W. Main Street, Clarkesburg, West Virginia 26301	1,225
Cornell Dubilier Corporation, Wayne Interchange Plaza I, Wayne, New Jersey 07470	297
Crane Company, 757 3rd Ave., 4th Floor, New York, New York 10017	205
Dan River Inc., 2291 Memorial Drive, Danville, Virginia 24541	26,423
Dana Corporation, 4500 Dorr Street, Toledo, Ohio 43697	812
Dayton Power & Light, 25 North Main Street, Dayton, Ohio 45459	93,467
Delmarva Power & Light Company, 800 King Street, Wilmington, Delaware 19899	28,283
Diebold, Inc., 818 Mulberry Road, S.E., Canton, Ohio 44707	3,517
Dietrich Industries Inc., 2121 Elida Road, Lima, Ohio 45802	1,362
Digital Equipment Corporation, 146 Main Street, Maynard, Massachusetts 01754	50
Disston, Inc., Post Office Box 3000, Danville, Virginia 24541	612
Dresser Ind. Inc. (tool group), 1505 Elm Street, Dallas, Texas 75221	3,726
Eastern Shore Rendering Company, Post Office Box 1551, Salisbury, Maryland 21801	7,090
Eastern Stainless Steel Corp., Post Office Box 1975, Baltimore, Maryland 21203	13,382
Elite Metal Products, 40 South St. Mary's Street, Post Office Box 467, St Mary's, Pennsylvania 15857	2,779
Everlon Fabrics Corporation, Railroad Avenue, Closter, New Jersey 07624	3,794
Excello Corporation, 2855 Coolidge, Troy, Michigan 48084	758
Fetterolf Development Corporation, Post Office Box 103, Skippack, Pennsylvania 19474	550
Flame Rite Gas Inc., Newport Road, Gordonville, Pennsylvania 17529	4,052
Fletcher Brick, Highway 25, Fletcher, North Carolina 28723	3,694
Grumman Aerospace, d/b/a Flexible Bus Company, 1111 Stewart Avenue, Bethpage, New York 11714	4,532
Flexible Corporation, Post Office Box 3190, Marietta, Georgia 30062	766
Franklin Aluminum, 881 Bevis Road, Franklin, Georgia 30217	956
Frito Lay Inc., Frito Lay Tower, Dallas, Texas 75235	502
General Electric, 3135 Eastern Turnpike, Fairfield, Connecticut 06430	56,321
General Steel Industries, Inc., Post Office Box 16000, St. Louis, Missouri 63105	7,935
Gibson Greeting Cards Inc., 2100 Section Road, Cincinnati, Ohio 45237	57
Glenshaw Glass Company, 1101 William Flynn Highway, Glenshaw, Pennsylvania 15116	79,545
GTE Sylvania (KY), Post Office Box 396, Madisonville, Kentucky 42431	8,904
Indiana Farm Bureau, 120 E. Market Street, Indianapolis, Indiana 46204	91,719
ITT Grinnell Corporation, 260 W. Exchange Street, Providence, Rhode Island 02901	1,423
Levitt's Furniture Corp., Group 1, d/b/a J. Homestock, Inc., 180 State Line Plaza, Enfield, Connecticut 06082	[2] 110
John-Manville Corporation, Post Office Box 5108, Denver, Colorado 80217	168,626
Kaiser Aluminum and Chemical, 300 Lakeside Drive, Oakland, California 94643	4,534
Kerr Glass Manufacturing, 501 S. Shotto Place, Los Angeles, California 90020	308
Lear Siegler Inc., 3171 S. Bundy Drive, Santa Monica, California 90406	1,803
Lenox Crystal Inc., Lenox Road, Mount Pleasant, Pennsylvania 15666	548
Linde Company, One Linde Drive, Goldsboro, North Carolina 27530	2,270
Lithonia Lighting Inc., Industrial Boulevard, Conyers, Georgia 30207	5,333
Macy's d/b/a J. Homestock, Inc., 151 West 34th Street, New York, New York 10001	[2] 117
Manchester Gas Company, 1260 Elm Street, Manchester, New Hampshire 03101	2,772
Monongahela Power Company, 1310 Fairmount Avenue, Fairmount, West Virginia 26554	59,358
Nabisco Inc., River Rd. & Deforest Ave., Hanover, New Jersey 07936	135
New Jersey Natural Gas Company, 601 Bang Avenue, Asbury Park, New Jersey 07712	16,776
North American Rockwell, New Castle, Pennsylvania 16100	20,247
North Electric Company, Post Office Box 11315, Kansas City, Missouri 64112	109
Ohio Steel Tube, 2 Oliver Plaza, Pittsburgh, Pennsylvania 15222	275
Otis Elevator Company, 750 3rd Avenue, New York, New York 10017	1,177
Owens Corning Fiberglass, Fiberglass Tower, Toledo, Ohio 43659	282
PPG Industries Inc., One Gateway Center, Pittsburgh, PA 15222	9,609
Pennsylvania Gas & Water Company, 39 Public Square, Wilkes Barre, Pennsylvania 18711	7,669
Peterbilt Motors, Madison, Tennessee 37115	989
Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19103	165,399

APPENDIX 1—PYROFAX GAS CORPORATION—Continued

First purchasers	Share of settlement[1]
Philadelphia Gas Works, 1800 N. 9th Street, Philadelphia, Pennsylvania 19122	309,021
Pilgrim Glass, Ceredo, West Virginia 25507	1,522
Pittsburg Forging, Coraopolis, Pennsylvania 15108	1,890
Pretty Products, Inc., 437 Cambridge Road, Coshocton, Ohio 43812	299
Prior Coated Metals, Marietta, Georgia 30000	322
Public Service Electric & Gas Company, 80 Park Plaza T5E, Newark, New Jersey 07101	150,280
Royster Company, Two Commercial Place, Norfolk, Virginia 23510	2,358
Scott Paper Company, Scott Plaza 1, Philadelphia, Pennsylvania 19113	192
Shenango China, Post Office Box 120, New Castle, Pennsylvania 16103	9,631
South Jersey Gas Company, 1 S. Jersey Plaza, Hammonton, New Jersey 08037	3,910
Southern Coil Coating, Post Office Box 160, Sumter, South Carolina 29150	118
Southern G.C.M., Griffin, Georgia 30223	164
Specialty Paper Company, 802 Miami Chapel Road, Dayton, Ohio 45401	157
Square D. Company, 1415 S. Roselle Road, Palatine, Illinois, 60067	15,608
Standard Register, Post Office Box 1167-T, Dayton, Ohio 45401	330
Standard Steel Company, 3441 N.W. Guam, Portland, Oregon 97208	1,810
Sybron-Taylor Instr. Co., 1100 Midtown Tower, Rochester, New York 14604	616
Tecumseh Products Company, 100 E. Patterson, Tecumseh, Michigan 49286	4,676
Thatcher Glass Manufacturing Company, Post Office Box 1505, Elmira, New York 14902	13,246
Tifton Aluminum Company, Southwell Boulevard, Tifton, Georgia 31794	5,014
Tuck Industries, 1 A LeFevre Lane, New Rochelle, New York 10801	2,174
Universal Cyclops Specialty Steel 652 Washington Road, Pittsburgh, Pennsylvania 15228	3,571
Universal Rundle Corporation, North & East Street, New Castle, Pennsylvania 16103	463

APPENDIX 1—PYROFAX GAS CORPORATION—Continued

First purchasers	Share of settlement[1]
Waterford Park Inc., Post Office Box 254, Chester, West Virginia 26034	8,173

[1] These figures do not include accrued interest.

[2] The $227 due to J. Homestock, Inc., is divided between the company's two former owners: Macy's of New York and Levitt's Furniture Corporation. (Levitt's purchased Homestock from Macy's in August 1977.)

APPENDIX 2

Spot purchasers[1]	Share of settlement[2]
Diversified Chemicals & Propellants, Post Office Box 447 Westmont, Illinois 60559	$188,343
Dixie Chemical, Old Cherry Point Road, New Bern, North Carolina 28560	419
East Side Gas Company, 5010 N. Post Road, Indianapolis, Indiana 46240	419
Petrolane Gas Service, 632 S. 84th Street, Milwaukee, Wisconsin 53214	1,240
Gas, Inc., 4205 Jonesboro Road, Union City, Georgia 30291	723
Gas Oil Products[3]	485
Good Housekeeping Gas Company, Post Office Box 2269, Jacksonville, Florida 32201	4,008
H.J. Poist Gas Company, 360 Main Street, Laurel, Maryland 20707	792
Midway Bottle Gas Company, 757 Stultz Road, Martinsville, Virginia 24112	382
Pengite Company, Malvern, Pennsylvaina 19355	48,574
Pulici Gas & Oil (PA), Hawley, Pennsylvania 18428	100
Savannah Valley Gas Company, Route 6, Box 8, Elberton, Georgia 30635	303
Stenger Gas Corporation, Kent Plaza, Chestertown, Maryland 21620	199
Sure Flame Gas Co., Inc., 334 West Main Street, Springfield, Kentucky 40069	2,517
U.G.I. Corporation, Post Office Box 858, Valley Forge, Pennsylvania 19482	32,878

[1] The audit files indicate that these companies purchased Pyrofax propane on an irregular, sporadic basis. They are thus considered "spot purchasers," and are not entitled to refunds. These firms may submit evidence to the contrary, however. For example, if a firm is an end user or public utility, it will be eligible for a refund even if it is a sport purchaser.

[2] These figures do not include accrued interest.

[3] The current address of this firm is unknown.

APPENDIX 3

First purchasers' addresses unknown	Share of settlement[1]
Energy Imports	$17,680
Grefco	5,905
Hook Bros. L-P Gas Company	1,519
Johnson Bronze Company	408
New Jersey Zinc	17,645
Roncari Industries	[2] 2
Star Finishing Company	[2] 12
Valley Service Company	59

[1] These figures do not include accrued interest.

[2] As the Decision and Order states, we will not process refund claims for under $15.00.

Appendix 4

RF277-_____

DOE use Only

Suggested Format

Application for Pyrofax Refund—HEF-0157

Please submit *two copies* of this form. Answer "n/a" to questions that do not apply to you.

1. Name and address of applicant firm during refund period (November 1, 1973—January 27 1981):

_____

_____

_____

2. Name of person or firm to whom refund check should be issued and address to which check should be sent:

_____

_____

_____

_____

Contact Person:

_____

Telephone

_____ _____

3. (a) Did you or your firm purchase Pyrofax propane between November 1, 1973 and January 27 1981?

Yes _____

No _____

(b) Is your firm listed in Appendix 1, 2, or 3 of the Decision? If no, you *must* attach a table listing the amount of Pyrofax propane you purchased *each month* between November 1, 1973, and January 27 1981.

Yes _____

No (table attached) _____

(c) If yes, indicate your refund claim as listed in Appendix 1, 2 or 3:

$_____

(d) If no, compute your refund claim using the volumetric method (multiply the total gallons of Pyrofax propane listed on your purchase table by $0.00757 per gallon):

$_____

4. Type of applicant (check one):

_____ end user

_____ consumer

_____ public utility

_____ agricultural cooperative

_____ propane reseller or retailer

_____

_____

_____ Other (please specify the nature of your business)

5. If you checked "propane reseller or retailer" in 4 *and* claim exceeds $5,000, will you (check one):

_____ limit your claim to $5,000, or

_____ attach to this form the detailed proof of injury discussed in the Decision.

6. Was your firm a spot purchaser of Pyrofax propane? (See Appendix 2.) If yes, you must attach detailed evidence to override the presumption that spot purchasers were not injured by Pryofax's alleged overcharges.

Yes _____
No _____

7 (a) Has the applicant firm changed ownership since November 1, 1973?

Yes _____
No _____

(b) If yes, attach a statement explaining why the applicant should receive a refund instead of the previous owners. Additionally, provide a signed statement from the previous owners indicating that they do not claim a refund. Attach the names and addresses of the previous owners.

8. Have you been a party or are you currently a party in a DOE enforcement action or private Section 210 action? If you, attach an explanation.

Yes _____
No _____

9. Have you or a related firm filed any other application for refund involving any Pyrofax product? If yes, attach an explanation.

Yes _____
No _____

10. Have you are a related firm authorized any individual(s) other than those identified on this form to file an application on your behalf? If yes, attach an explanation.

Yes _____
No _____

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both, pursuant to 18 U.S.C. § 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application form which will be placed in the OHA Public Reference Room.

_____
Date

_____
Signature of Applicant

_____
Title

[FR Doc. 87-9012 Filed 4-21-87; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3190]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.)* requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that EPA has forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The ICRs that follow are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382-2712 (FTS 382-2712) or Jackie Rivers, (202) 382-2740 (FTS 382-2740).

Office of Pesticides and Toxic Substances

Title: Pesticide Applicator Certification Form (EPA Form 8500-17); Training and Examination of Applicators (EPA ICR #0155). (This is a revision of a currently approved collection.)

Abstract: In order to minimize the threat to human health and the environment caused by pesticide misuse, EPA conducts a program to certify pesticide applicators in states whose programs have not received Agency approval (Colorado for private applicators and Nebraska for private and commercial applicators). Individuals applying for or renewing certification as applicators or restricted-use pesticides must complete EPA form 8500-17 In addition to providing background information, this form requires applicants to establish their competency in pesticide use through completion of a training program or via examination.

Respondents: Certain pesticide applicators seeking certification.

Estimated Annual Burden: 59,829 hours.

Office of Research and Development

Title: Measurement of Soil Ingestion in Children Ages 2.5-7 (EPA ICR #1356). (This is a new collection.)

ABSTRACT. EPA will conduct a study of soil ingestion in children to develop methodology for evaluating risk and to pretest public response to random-digit dialing.

Respondents: Parents of 100 children in the Tri-Cities area, Washington.

Estimated Annual Burden: 705 hours.

* * * *

Agency PRA Clearance Requests Completed by OMB

EPA has received no action notices from OMB since publishing the last **Federal Register** notice.

* * * * *

Comments on the abstracts in this notice may be sent to:

Patricia Minami, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street SW., Washington, DC 20460

and

Carlos Tellez, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, 726 Jackson Place, NW., Washington, DC 20503.

Dated: April 17, 1987.

Daniel J. Fiorino, Director,
Information and Regulatory Systems Division.

[FR Doc. 87-9078 Filed 4-21-87; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-00081; FRL-3190-8]

Biotechnology Science Advisory Committee; Announcement of Committee Members

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of Biotechnology Science Advisory Committee Members.

SUMMARY: On July 2, 1986, the EPA announced its intent to prepare a list of candidates from which nominees would be selected for the Biotechnology Science Advisory Committee (BSAC) and/or its Subcommittees. A list of such candidates was prepared and from that list were selected individuals to form the BSAC. The BSAC was established to provide expert scientific advice to the EPA Administrator concerning issues relating to applications of modern biotechnology.

SUPPLEMENTARY INFORMATION: Members of the Biotechnology Science Advisory Committee and their backgrounds are:

Rita Colwell, Chairperson: B.S. Purdue University, M.S. Purdue University, Ph.D. University of Washington. Vice-President of Academic Affairs, and Professor of Microbiology, University of Maryland. Research Interests: Marine biotechnology, marine and estuarine microbial ecology; survival of pathogens in the aquatic environment, microbial biodegradation. Committees: EPA Environmental Research Board, appointed 1984; National Science Foundation, Biotechnology Committee, January 30, 1984; Natural Resources Defense Council, Diversity Task Force, 1982-present; International 877–470 Cell Research Organization, 1979-present.

Robert Colwell: A.B. Harvard College, Ph.D. University of Michigan. Professor, University of California, Berkeley, Department of Zoology. Research Interests: Community Biology: species interaction and coevolution, species diversity and biogeography, patterning in space and time, adaptive morphologies and life histories and bilogical systematics. Committees: NIH RAC Working Group on Release into the Environment, 1984-present; Ad Hoc Consultant to EPA and USDA, 1984-present.

Douglas Rouse: B.S. Ottawa University, M.S. Colorado State University, Ph.D. Pennsylvania State University. Associate Professor, University of Wisconsin. Research Interests: Plant pathology, mathematical modeling and quantitative analysis, population dynamics, use of biocontrol agents in the field, practical plant breeding experience.

David Stahl: B.S. University of Washington, M.S. University of Illinois, Ph.D. University of Illinois. Assistant Professor of Veterinary Microbiology, Department of Veterinary Pathobiology, University of Illinois, Urbana. Research Interests: Molecular approaches of microbial ecology, molecular phylogeny of microorganisms, ribosomal RNA processing.

James Tiedje: B.S. Iowa State University, M.S. Cornell University, Ph.D. Cornell University. Assistant, Associate and Professor, Departments of Crop and Soil Sciences and Public Health, Michigan State University, 1968-present. Acting Director for Development of Research, Michigan Agricultural Experiment Station, 1977–78. Research Interests: Role of terrestial (and aquatic) bacteria on nitrogen, sulfate, carbon, phosphate and hydrogen cycles, microbial degradation of xenobiotic chemicals. Committees: USDA Competitive Grants Review Panel, 1980–81. FIFRA Scientific Advisory Panel.

Richard Merrill: A.B. Columbia College, B.A. Oxford University, M.A. Oxford University, LL.B. Columbia University School of Law. University of Virginia School of Law: Associate Professor, 1969–72; Professor, 1972–77; Associate Dean, 1974–75; Daniel Caplin Professor, 1977–85; Arnold Leon Professor, 1985-present; Dean, 1980-present. Chief Counsel, U.S. FDA, 1975–77 Committees: Council of the Institute of Medicine, National Academy of Sciences; IOM Member, 1977-present.

Ralph Mitchell: B.A. Trinity College, Dublin, Ireland, M.S. Cornell University, Ph.D. Cornell University. Gordon McKay Professor of Applied Biology, Division of Applied Sciences, Harvard University, 1970-Present. Research Interests: Industrial microbiology. Committees: National Research Council, National Committee on Water Quality, American Society of Microbiology, Committee on Environmental Hazards.

Charles Hagedorn: B.S. Kansas State University, M.S. Iowa State University, Ph.D. Iowa State University. Professor of Agronomy and Plant Pathology, Virginia Polytechnic University, 8/86-present. Manager and Senior Microbiologist, Crop Science Laboratory, Allied Corporation, 9/83–7/86. Research Interests: Environmental Microbiology, Microbial Ecology, Soil, Aquatic and Agricultural Microbiology. Committees: Member, Review Panel, EPA Biotechnology Risk Assessment Program, effective 12/10/85. Member, Environmental Chemistry and Physics Review Panel, EPA, Columbus, Ohio 1980–83.

Jay Hair: B.S. Clemsom University, M.S. Clemson University, Ph.D. University of Edmonton, Canada. Research and Management Consultant, South Carolina Wildlife and Marine Resources Department, 1976–77 Assistant Professor of Wildlife Biology, Clemson University, 1973–77 Special Assistant, U.S. Department of Interior, Office of the Assistant Secretary, Fish and Wildlife and Parks, 1978–80. Associate Professor of Zoology and Forestry, 1977–81. Executive Vice-President, National Wildlife Federation, 1981-present. Committees: American Association for the Advancement of Science; American Forestry Association; Association of University Fisheries and Wildlife Program Administrators; Ecological Society of America; International Association of Fish and Wildlife Agencies; Wildlife Society; Nature Conservancy.

Susan Gottesman: B.S. Radcliffe College, Ph.D. Harvard. Acting Chief, Biochemical Genetics Section, Laboratory, of Molecular Biology, National Cancer Institute, National Institutes of Health. Research Interests: Global control of gene expression in gram negative bacteria; genetic control of bacterial cell growth; regulation of proteolysis in *E. coli*; site specific recombination. Committees: RAC Risk Assessment Subcommittee, RAC Phage Working Group; RAC Human Gene Therapy Working Group; RAC Working Group on Release to the Environment; RAC Working Group on Revision of the Guidelines.

Francis Macrina: B.S. Cornell University, Ph.D. Syracuse. Professor and Chairman, Department of Microbiology and Immunology, Virginia Commowealth University. Research Interests: Antibiotic resistance in oral and intestinal flora. Committees: EPA Science Advisory Board: Study Group on Biotechnology 1985–86, NIH RAC Working Group on Gram Positive Bacteria; Consultant, FDA, use of antibiotics in animal feed.

Dated: April 15, 1987.

Victor J. Kimm,

Acting Assistant Administrator, Pesticides and Toxic Substances.

[FR Doc. 87-9077 Filed 4-21-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100039; FRL-3191-3]

Planning Research Corporation, Sycom, Inc., and Logic Unlimited, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA).

Planning Research Corporation (PRC), and its subcontractors, Sycom, Inc., and Logic Unlimited, Inc., have been awarded a contract to perform work for EPA's Office of Pesticide Programs (OPP), and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to PRC and its subcontractors Sycom, Inc. and Logic Unlimited, Inc. in accordance with 40 CFR 2.307(h) and 40 CFR 2.308(h)(2), respectively. This action will enable PRC, Sycom, Inc., and Logic Unlimited, Inc. to fulfill the obligations of the contract and serves to notify affected persons.

DATE: PRC, Sycom, Inc., and Logic Unlimited, Inc. will be given access to this information no sooner than April 27 1987

FOR FURTHER INFORMATION CONTACT: By mail:

William C. Grosse, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2613).

SUPPLEMENTARY INFORMATION: Under Contract No. 68-01-7361, PRC, Sycom, Inc., and Logic Unlimited, Inc. will provide general ADP programming services to OPP and assist in the conversion of existing ADP systems to an ADABAS environment, and in the design and development of new ADP systems for use by OPP and its community.

OPP has determined that access by PRC, Sycom, Inc., and Logic Unlimited, Inc. to information on all pesticide chemicals is necessary for the performance of the contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with PRC, Sycom, Inc., and Logic Unlimited, Inc. prohibits use of the information for any purpose other than the purpose(s) specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency or affected business; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release. In addition, PRC, Sycom, Inc., and Logic Unlimited, Inc. are required to submit for EPA approval a security plan under which CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor and its subcontractors until the above requirements have been fully satisfied. Records of information provided to this contractor and its subcontractors will be maintained by the Project Officer for this contract in OPP. All information supplied to PRC, Sycom, Inc., and Logic Unlimited, Inc. by EPA for use in connection with this contract will be returned to EPA when PRC, Sycom, Inc., and Logic Unlimited, Inc. have completed their work.

Dated: April 14, 1987.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 87-9073 Filed 4-21-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100038; FRL-3190-4]

Dynamac Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA).

Dynamac Corporation has been awarded a contract to perform work for the EPA Office of Drinking Water, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. Contractor access to FIFRA and FFDCA CBI is authorized by 40 CFR 2.307(h) and 40 CFR 2.308(h)(2) respectively. This action will enable Dynamac Corporation to fulfill the obligations of the contract and serves to notify affected persons.

DATE: Dynamac Corporation will be given access to this information no sooner than April 27 1987

FOR FURTHER INFORMATION CONTACT: By mail: William C. Grosse, Program Management and Support Division (TS-757C), Office of pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2613).

SUPPLEMENTARY INFORMATION: Under Contract No. 68-03-3417 Dynamac Corporation will provide technical support to EPA's Office of Drinking Water in the development of drinking water criteria documents and health advisory documents. This contract involves no subcontractors.

The Office of Drinking Water and the Office of Pesticide Programs have jointly determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract.

These evaluations may be used in subsequent regulatory decisions under FIFRA.

Aciflurofen	EDB
Alachlor	Endothall
Aldicarb	Fenamiphos
Ametryn	Fluometuron
Ammonium sulfamate	Fonofos
Atrazine	Glyphosate
Baygon	Hexazinone
Bentazon	Maleic hydrazide
Bromacil	MCPA
Butylate	Methomyl
Carbaryl	Methyl parathion
Carbofuran	Metolachlor
Carboxin	Metribuzin
Chloramben	Nabam
Chlordane	Nitrate
Chlorothalonil	Oxamyl
Cyanazine	Paraquat
Cycloate	Pentachlorophenol
2,4-D	Picloram
Dacthal	Prometon
Dalapon	Pronamide
DBCP	Propachlor
Diazinon	Propazine
Dicamba	Propham
1,2-Dichloropropane	Simazine
Dieldrin	2,4,5-T
Dimethrin	2,4,5-TP
Dinoseb	Terbuthiuron
Diphenamid	Terbacil
Diquat	Terbufos
Disulfoton	Treflan
Diuron	

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA

under sections 3, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.301(h)(2), the contract with Dynamac Corporation prohibits use of the information for any purpose other than purpose(s) specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency or affected business; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release. In addition, Dynamac Corporation is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Drinking Water. All information supplied to Dynamac Corporation by EPA for use in connection with this contract will be returned to EPA when Dynamac Corporation has completed its work.

Dated: April 8, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 87-8883 Filed 4-21-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-36140; FRL-3190-1]

Inert Ingredients in Pesticide Products; Policy Statement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces certain policies designed to reduce the potential for adverse effects from the use of pesticide products containing toxic inert ingredients. The agency is encouraging the use of the least toxic inert ingredient available and requiring the development of data necessary to determine the conditions of safe use of products containing toxic inert ingredients. In support of these policies, the Agency has categorized inert ingredients according to toxicity. The Agency will (1) require data and labeling for inert ingredients which have been demonstrated to cause toxic effects; (2) in selected cases, pursue hearings to determine whether such inert ingredients should continue to be permitted in pesticide products; (3) require data on inert ingredients which are similar in chemical structure to chemicals with demonstrated toxic properties, or which have suggestive, but incomplete data on toxicity; and (4) subject all new inert ingredients, both for food and non-food uses, to a minimal data set and scientific review. The Agency is soliciting comments on these policies.

EFFECTIVE DATE: This policy is effective on April 22, 1987 subject to revision if comments received warrant such revision.

ADDRESSES: Three copies of written comments bearing the document control number [OPP-36140] should be submitted, by mail, to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person deliver comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket is available for public inspection in Room 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

Tina Levine, Hazard Evaluation Division (TS-769C), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. (703-557-9307).

Office location and telephone number: Rm. 788E, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-9307).

SUPPLEMENTARY INFORMATION: EPA is issuing this notice announcing certain policies regarding inert ingredients in pesticide products.

I. Definitions

1. *Active ingredient.* An ingredient which will prevent, destroy, repel, or mitigate any pest, or will alter the growth or maturation or other behavior of a plant, or cause the leaves or foliage to drop from a plant, or accelerate the drying of plant tissue.

2. *Inert ingredient.* For purposes of this policy, any intentionally added ingredient in a pesticide product which is not pesticidally active. This definition does not include impurities.

3. *Closely similar product.* A pesticide product that (1) contains the same active ingredient(s) in substantially the same percentage(s) as a product already registered, (2) is intended for the same use pattern as the already-registered product, and (3) contains no greater percentage of any List 1 or List 2 inert ingredient than the already-registered product.

II. Background and Legal Authority

A. The Federal Insecticide, Fungicide, and Rodenticide Act.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), requires that all pesticide products sold or distributed in commerce be registered by the Environmental Protection Agency (EPA or Agency). Prior to the establishment of EPA, the Department of Agriculture (USDA) registered pesticides under FIFRA. Most of the data requirements and regulatory activities under FIFRA have focused on the active ingredient. There are two exceptions to this general policy: (1) A battery of acute toxicity tests on the pesticide formulation, which generally includes both active and inert ingredients, is routinely required for registration of an end-use product; (2) The Agency has imposed certain labeling requirements for hazardous inert ingredients (49 FR 37980, September 26, 1984).

B. Federal Food, Drug, and Cosmetic Act

In addition to its mandate under FIFRA, EPA has authority to regulate pesticide products under the Federal Food, Drug, and Cosmetic Act (FFDCA). Section 408 of FFDCA authorizes EPA to establish tolerances or safe levels of pesticide residues in raw agricultural commodities; section 409 similarly authorizes EPA to issue food additive regulations for pesticide residues in processed foods. Prior to the establishment of the EPA, the Food and Drug Administration (FDA) had the responsibility for establishing tolerances and food additive regulations for pesticide residues.

The FDA has issued several notices explaining its policy with regard to regulation of inert ingredients in pesticides under the FFDCA. In 1961, FDA published a notice in the Federal Register stating that USDA had determined that each component of registered pesticide products, including

the inert ingredients, were pesticide chemicals and thus subject to the requirement of tolerances or exemption under FFDCA (26 FR 10640, November 14, 1961). In 1969, the FDA established a policy regarding data requirements and review procedures for clearance of inert ingredients (34 FR 6041, April 3, 1969). This notice set forth general toxicity data requirements and stated that residue data requirements would depend on the toxicity of the chemical. However, the policy allowed a less formal review process if FDA could conclude that the inert ingredient was generally recognized as safe for the stated purpose. Exemptions from the requirement of a tolerance for inert ingredients have generally occurred through the informal request procedure, rather than the formal petition process required for active ingredients. Inert ingredients exempt from the requirement of a tolerance are codified in 40 CFR 180.1001.

There are currently approximately 1,200 inert ingredients in pesticide formulations. About half of these have been cleared for food use under section 408 or 409 of FFDCA. Many of these chemicals had been approved by the FDA for non-pesticidal use as food additives, for example, as flavorings or in packaging, before they began being used in pesticide formulations. These chemicals were generally exempted from the requirement of a tolerance with little systematic review or screening by the EPA. Inert ingredients in products registered only for non-food uses also have received little scientific review.

III. Development of Regulatory Policy for Inert Ingredients

Because of concern that some inert ingredients in pesticide products might cause adverse effects to humans or the environment, the Agency developed a draft strategy for the regulation of inert ingredients, which was reviewed by the FIFRA Scientific Advisory Panel and was made available to the public in Spring 1986. This **Federal Register** notice announces the policy of the Agency regarding inert ingredients in pesticide products and is based on the strategy.

EPA has divided the approximately 1,200 intentionally-added inert ingredients currently contained in pesticide products into four toxicity categories:

1. Inerts of toxicological concern (List 1).
2. Potentially toxic inerts/high priority for testing (List 2).
3. Inerts of unknown toxicity (List 3).
4. Inerts of minimal concern (List 4).

EPA has identified about 50 inert ingredients as being of significant toxicological concern. This list was assembled on the basis of known toxicity of the chemical; no consideration was given to the potential for exposure. The criteria used to place chemicals on List 1 were carcinogenicity, adverse reproductive effects, neurotoxicity or other chronic effects, or developmental toxicity (birth defects). These effects must have been demonstrated in laboratory or human studies and the data subject to peer review. The criteria also included documented ecological effects and the potential for bioaccumulation. These criteria and the list itself were reviewed by the FIFRA Scientific Advisory Panel. List 1, inerts of toxicological concern, is as follows:

LIST 1—INERTS OF TOXICOLOGICAL CONCERN

CAS No.	Chemical name
62-53-3	Aniline.
1332-21-4	Asbestos fiber.
71-43-2	Benzene.
1332-21-9	1,4-Benzenediol.
3068-88-0	B-Butyrolactone.
7440-43-9	Cadmium compounds.
75-15-0	Carbon disulfide.
56-23-5	Carbon tetrachloride.
108-90-7	Chlorobenzene.
67-66-3	Chloroform.
62-73-7	DDVP
106-46-7	*p*-Dichlorobenzene.
117-87-7	Di-ethyl hexyl phthalate (DEHP).
57-14-7	1,1-Dimethyl hydrazine.
540-73-8	1,2-Dimethyl hydrazine.
534-52-1	Dinitro-*o*-cresol.
51-28-5	Dinitrophenol.
123-91-1	Dioxane.
106-89-8	Epichlorhydrin.
110-80-5	Ethanol, 2-ethoxy (cellusolve).
111-15-9	Ethanol ethoxy acetate.
96-45-7	Ethylene thiourea.
107-06-2	Ethylene dichloride.
109-86-4	Ethylene glycol monomethyl ether; methyl cellosolve.
140-88-5	Ethyl acrylate.
77-83-8	Ethyl methyl glycidate.
50-00-0	Formaldehyde.
70-30-4	Hexachlorophene.
110-54-3	*n*-Hexane.
302-01-2	Hydrazine.
78-59-1	Isophorone.
7439-92-1	Pb Compounds.
568-64-2	Malachite Green.
1191-80-6	Mercury oleate.
591-78-6	Methyl *n*-butyl ketone.
74-87-3	Methyl chloride.
75-09-2	Methylene chloride.
79-46-9	2-Nitropropane.
25154-52-3	Nonylphenol.
30525-89-4	Paraformaldehyde.
87-86-5	Pentachlorophenol.
127-18-4	Perchlorethylene (PERC).
108-95-2	Phenol.
90-43-7	*o*-Phenylphenol.
78-87-5	Propylene dichloride (1,2-dichloropropane).
75-56-9	Propylene oxide.
8003-34-5	Pyrethrins and pyrethroids.
81-88-9	Rhodamine B.
10588-01-9	Sodium dichromate.
131-52-2	Sodium pentachlorophenate.
62-56-6	Thiourea.
26471-62-5	Toluene diisocyanate.
79-00-5	1,1,2-Trichloroethane.
56-35-9	Tributyl tin oxide.
79-01-6	Trichloroethylene.
1330-78-5	Tri-orthocresylphosphate (TOCP).
78-30-8	Tri-orthocresylphosphate (TOCP).

EPA has further identified about 60 inert ingredients which the Agency believes are potentially toxic and should be assessed for effects of concern (List 2). Many of these inert ingredients are structurally similar to chemicals known to be toxic; some have data suggesting a basis for concern about the toxicity of the chemical. Most of the chemicals on List 2 have been designated for testing through the National Toxicology Program (NTP), the EPA Office of Toxic Substances (OTS) or other regulatory or government bodies. The FIFRA Scientific Advisory Panel has also reviewed this list. Because testing is ongoing for most of chemicals on List 2, it is expected to change periodically. It is the Agency's policy to have all additions, deletions or changes to List 1 or 2 reviewed by the FIFRA Scientific Advisory Panel. List 2, potentially toxic inerts/ high priority for testing, is as follows:

LIST 2—POTENTIALLY TOXIC INERTS/HIGH PRIORITY FOR TESTING

CAS No.	Chemical name
85-68-7	Butyl benzyl phthalate.
84-74-2	Dibutyl phthalate.
84-66-2	Diethyl phthalate.
131-11-3	Dimethyl phthalate.
117-84-0	Dioctyl phthalate.
95-49-8	2-Chlorotoluene.
1319-77-3	Cresols.
95-48-7	*o*-Cresol.
106-44-5	*p*-Cresol.
108-39-4	*m*-Cresol.
108-94-1	Cyclohexanone.
95-50-1	*o*-Dichlorobenzene.
112-34-5	Diethylene glycol mono butyl ether (butyl carbitol).
111-90-0	Diethylene glycol mono ethyl ether (carbitol).
111-77-3	Diethylene glycol mono methyl ether (methyl carbitol).
34590-94-8	Dipropylene glycol mono methyl ether.
111-76-2	2-Butoxy-1-ethanol (ethylene glycol mono butyl ether).
5131-66-8	1-Butoxy-2-propanol (1,2-propylene glycol-1-mono butyl ether).
124-16-3	1-Butoxy ethoxy-2-propanol.
107-98-2	1-Methoxy-2-propanol.
29387-86-8	Propylene glycol monobutyl ether.
25498-49-1	Tripropylene glycol mono methyl ether.
577-11-7	Dioctyl sodium sulfosuccinate.
141-79-7	Mesityl oxide.
108-10-1	Methyl isobutyl ketone.
75-52-5	Nitromethane.
108-88-3	Toluene.
29385-43-1	Tolyl triazole.
95-14-7	1,2,3-Benzotriazole.
120-32-1	2-Benzyl 4-chlorophenol.
75-00-3	Chloroethane.
88-04-0	*p*-Chloro-*m*-xylenol.
97-23-4	Dichlorophene.
68-12-2	Dimethyl formamide.
100-41-4	Ethyl benzene.
149-30-4	Mercaptobenzothiazole.
74-83-9	Methyl bromide.
75-43-4	Chlorodifluoromethane.
75-43-4	Dichloromonofluoromethane.
75-45-6	Chlorodifluoromethane.
75-37-6	1,1-Difluoroethane.
75-88-3	1-Chloro-1,1-difluoroethane.
25168-06-3	Isopropyl phenols.
	Petroleum hydrocarbons.
1330-20-7	Xylene.
100-02-7	*p*-Nitrophenol.
106-88-7	Butylene oxide.
79-24-3	Nitroethane.
75-05-8	Acetonitrile.
96-48-0	gamma-Butyrolactone.
71-55-6	1,1,1-Trichloroethane.
102-71-6	Triethanolamine.
111-42-2	Diethanolamine.
97-88-1	Butyl methacrylate.
80-62-6	Methyl methacrylate.

LIST 2—POTENTIALLY TOXIC INERTS/HIGH PRIORITY FOR TESTING—Continued

CAS No.	Chemical name
	Xylene-range aromatic solvents.
95-82-9	Dichloroaniline.
95-76-1	Dichloroaniline.
626-43-7	Dichloroaniline.
554-00-7	Dichloroaniline.
608-27-5	Dichloroaniline.
608-31-1	Dichloroaniline.
101-84-8	Diphenyl ether.
76-13-1	Trichlorotrifluoroethane.
75-69-4	Trichlorofluoromethane.
75-71-8	Dichlorodifluoromethane.
79-14-2	Dichlorotetrafluoroethane.

Inert ingredients were put on List 4 (minimal hazard or risk) if they were generally regarded as innocuous. These included inert ingredients such as cookie crumbs, corn cobs, and substances "generally recognized as safe (GRAS)" by the FDA (21 CFR Part 182). There are approximately 300 inert ingredients in this category.

An inert ingredient was placed on List 3 if there was no basis for listing it on any of the other three lists. There are approximately 800 inert ingredients in this category.

Lists 3 and 4 are not addressed further in this notice since the Agency will be taking no particular regulatory actions with respect to these inert ingredients at this time. Applications for exemptions from the requirement of tolerances for Lists 3 and 4 inert ingredients are discussed in unit VI.

These lists were developed to establish priorities for regulatory activities related to existing inert ingredients. The Agency intends to focus its initial regulatory efforts on the inerts of toxicological concern. For this reason, the current policy notice is most specific with regard to inert ingredients on List 1. As resources permit, EPA will extend its activities to the other inert ingredients.

IV Inerts of Toxicological Concern (List 1)

In order to reduce the potential for adverse effects to humans or the environment, it is the policy of the Agency to encourage the use in pesticide products of the least toxic inert ingredients available and to require development of the information necessary to determine the conditions under which various chemicals may be used safely as inert ingredients in pesticide products. In line with this policy, EPA has developed procedures for dealing with new and existing pesticide registrations containing inerts of toxicological concern. It should be noted that the Agency is currently engaged in a comprehensive review of various chlorinated solvents, several of which are on List 1 or List 2. The data gathering described in Section A.3. below will support that effort. As conclusions are made in the Solvents Project, the inerts policy with respect to those substances will be reviewed to see whether adjustments in status would be appropriate. In the meantime, chemicals under review in the Solvents Project are subject to the requirements described below.

A. Existing Registrations

1. *Substitution.* Registrants are encouraged to substitute inert ingredients not included in List 1 or List 2 for inerts of toxicologic concern (List 1) now contained in their products. Registrants electing to substitute should submit a new Confidential Statement of Formula as a proposed amendment to the registration. The revised Confidential Statement of Formula should be sent to: Product Manager, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

2. *Labeling.* As an immediate step to inform users and the general public of the presence of an inert of toxicological concern, EPA is directing registrants of each product containing an inert ingredient on List 1 to submit applications (to the product manager at the above address) to amend their registrations to add the following statement to the label:

This product contains the toxic inert ingredient (*name of inert*).

The wording should be placed in close proximity to the ingredients statement in a type size comparable to other front panel text.

Registrants are required to submit the application not later than October 20, 1987 (At the top of each application, please write in bold letters "INERTS".) No pesticide product containing a List 1 inert ingredient may be released for shipment after October 20, 1988 unless the product bears an amended label which complies with the provisions listed above. EPA may initiate cancellation proceedings under section 6(b)(1) of FIFRA for any product registrations containing a List 1 inert ingredient for which an amended label is not submitted in a timely fashion.

3. *Data Requirements.* In addition, any registrant who retains an inert of toxicologic concern in his or her product(s) will be subject to data call-in under section 3(c)(2)(B) of FIFRA. The data requirements will take into consideration the chemical's existing data base and the product's use pattern. Because of the demonstrated biological activity of chemicals on List 1, EPA may require as much data as would be required by 40 CFR Part 158 for an active ingredient. For many of these inert ingredients, adequate toxicity data exist, but additional exposure data would be required. In addition, data on environmental fate, ecological effects and residue chemistry may be required. The Agency intends to issue data call-in letters for this data beginning in April 1987

4. *Hearings.* For certain inert ingredients on List 1, EPA intends to issue Notices of Intent to Hold a Hearing under FIFRA section 6(b)(2). The purpose of these hearings will be to gather and present information on the risks and benefits of these inert ingredients. Based on the information presented during that hearing EPA will determine whether pesticide products containing a particular inert ingredient on List 1 should be cancelled, be subject to additional restrictions, or be allowed to continue their current registrations without change. Hearings conducted under FIFRA section 6(b)(2) are formal adjudicatory proceedings conducted according to the procedures in 40 CFR Part 164. Evidence is presented under oath by witnesses, who are subject to cross-examination. EPA has the burden of proceeding, but the ultimate burden of proof rests on registrants. Decisions are based only on evidence in the hearing record. The presiding Administrative Law Judge makes an Initial Decision which may be appealed to the Administrator who makes the Final Decision.

EPA expects to issue the first Notice of Intent to Hold a Hearing concerning an inert ingredient on List 1 in 1987 Subsequent notices may cover several List 1 inert ingredients with similar functions in pesticide formulations, e.g. solvents.

5. *Reclassifying Inert Ingredients As Active Ingredients.* The Agency has also identified several inerts of toxicological concern which are present in pesticide formulations to act against some pest, although not necessarily the pest targeted by the formulation. For example, an ingredient may be added to a rodent bait to repel flies. Although these ingredients have traditionally been designated as inert ingredients, EPA believes that they are actually active ingredients. These inert ingredients are formaldehyde, paraformaldehyde, hexachlorophene, 2,2-dichloro vinyl dimethyl phosphate, and the pyrethins/pyrethoids. EPA recently indicated its intent to reclassify formaldehyde and paraformaldehyde as active ingredients when used in pesticide products to prevent microbial damage to such products (52 FR 321,

January 5, 1987). EPA intends to similarly reclassify the other inert ingredients that prevent damage to pesticide formulations by pests as active ingredients in those formulations. This will simplify the process of obtaining data under FIFRA section 3(c)(2)(B).

6. *Revocation of Exemptions from Tolerance.* Any pesticide chemical used on food must have a tolerance or an exemption from the need for a tolerance. If the Agency determines that an inert of toxicological concern is no longer used in any food-use pesticide product, the exemption(s) from the need for a tolerance will be revoked for that inert ingredient. In addition, there may be circumstances in which EPA will replace existing exemptions with finite tolerances. Such action will be taken when the data gathered through the data call-in activities on inerts of toxicological concern enable the Agency to establish a finite tolerance.

B. New Registrations

In general, no new product that contains an inert of toxicological concern will be registered unless the product is closely similar to an existing product, as defined above. In limited circumstances, other products may be registered if review indicates that the risk of unreasonable adverse effects to humans or on the environment will be decreased by such a registration. As specified above, the label of any product containing such an inert ingredient will be required to indicate the presence of the inert ingredient. In addition, the product will be registered conditionally, subject to any data requirements that the Agency imposes on registrants of similar products.

V. Potentially Toxic Inerts/High Priority for Testing

The Agency's goal is to collect enough information on each inert ingredient on List 2 to determine whether further regulatory actions such as those for inerts on List 1 are necessary. In order to make this determination, the Agency is monitoring ongoing testing and gathering existing information on the potential adverse effects of these substances and will require additional testing from industry if it is needed.

A. Existing Registrations

EPA does not plan to issue any specific requirements in the near future for inert ingredients on List 2. If an inert ingredient is moved from List 2 to List 1, as new data or information becomes available, it will become subject to the requirements outlined in Section IV of this notice.

B. New Registrations

Closely similar products containing List 2 inert ingredients will continue to be registered.

Applications for registration of other products (e.g., new uses) containing inert ingredients that are on List 2 will be reviewed on a case-by-case basis. The Agency will consider the current weight-of-evidence with respect to the hazards posed as well as the potential for increased exposure when deciding whether the product meets the standard for registration.

VI. New Inert Ingredients and New Food-Uses of Existing Inerts

Any inert ingredient proposed for use in a pesticide product is considered to be a "new" inert ingredient if it is not currently identified as present in some approved pesticide formulation or has never been in a previously registered product. The minimal data generally required to evaluate the risks posed by the presence of a new inert ingredient in a pesticide product is a subset of the kinds of data typically required for active ingredients under 40 CFR Part 158. A description of the data required and guideline number as listed in 40 CFR Part 158 follows:

DATA REQUIRED TO EVALUATE RISKS POSED BY INERT INGREDIENTS IN PESTICIDE PRODUCTS

	Guideline ref. number 40 CFR Part 158
1. KIND OF DATA REQUIRED:	
Residue Chemistry:	
Description of the pesticide or type of pesticide formulation(s) in which the inert will be used and the maximum percent by weight it can occupy in any formulation	
Description regarding the range of use patterns and range of concentrations of the inert material [1]	171-3
2. KIND OF DATA REQUIRED:	
Product Chemistry:	
Description of the chemical or chemical mixture including structural formula(e)	61-1
Chemical Abstracts Service (CAS) Registry Number and file	61-1
Any technical bulletins available on the inert:	
Purpose of inert in pesticide formulation (i.e., solvent, emulsifier, etc.)	61-1
Discussion of possible toxic contaminants such as nitrosamines, polynuclear aromatics or dioxins	61-3
Batch analyses [2]	62-1
Density/specific gravity	63-7
Solubility	63-8
Vapor Pressure	63-9
Dissociation Constant	63-10
Octanol/Water Partition Coefficient	63-11
pH	63-12
Toxicology:	
90-day feeding study: rodent and dog [3]	82-1
Subchronic dermal toxicity [4]	82-2; 82-3
Teratology study: rodent	83-3
Gene mutation test	84-2
Structural chromosomal aberration test	84-2
Other genotoxic effects	84-4
3. KIND OF DATA REQUIRED:	
Ecotoxicology: [5]	
Acute 96-hr fish LC50 (preferable in rainbow trout or bluegill)	72-1
48-hr LC50 or EC50 in daphnia	72-2
Avian oral LD50 (preferably in mallard or bobwhite)	71-1
8-day avian dietary LC50 (preferable in mallard or bobwhite)	71-2
Environmental Fate: [5]	
Hydrolysis	161-1
Aerobic soil metabolism	162-1
Photodegradation in water	161-2
Photodegradation on soil	161-3
Koc or Kd	163-1

[1] For use on food crops, include whether preharvest and/or postharvest application, or use on livestock, and any use restrictions.

[2] Batch analyses would be required only if there are possible contaminants of concern or if a mixture of variable composition is involved.

[3] If the inert is used in a food-use product, two subchronic feeding studies will be required.

[4] This study may be substituted for the 90-day feeding studies if only non-food use is proposed. The duration of a subchronic dermal study will depend on the potential duration and frequency of human exposure.

[5] Ecotoxicology and environmental fate testing are required only for formulations used outdoors.

In certain circumstances, EPA may waive some or all of these data requirements, for example, if the applicant can show that the proposed new use pattern of the inert ingredient will result in little or virtually no exposure. Data or use information

should address dietary, groundwater or applicator exposure, as appropriate. In gathering the data to be submitted to the Agency, the applicant should contact manufacturers, trade associations, etc., who may be able to assist in identifying appropriate data. As a minimum, applicants whose formulations contain new food-use inert ingredients should contact the FDA to obtain data and information on inert ingredients that may have approved food additive uses.

In addition to new inert ingredients, the data requirements and review process described above will be used to evaluate requests for additional exemptions from tolerances and changes in exemptions from tolerances of inerts already cleared for food-use and for exemptions from tolerances for existing inert ingredients not presently used on foods. The requirements outlined constitute our "base set" of data needs. If these studies indicate potential human health concerns or ecotoxicity, or potential groundwater contamination, further testing may be required to fully assess the risks and define acceptable uses.

VII. Proprietary Inert Ingredients or Mixtures

In the case of some products, the registrant is not aware of the identity of all of the inert ingredients. These products contain a substance (usually a combination of several inert ingredients) which is designed to perform a particular function in pesticide products (e.g., to act as a solvent or emulsifier) but which is sold to pesticide registrants under a trade name without disclosure of the substance's constituents. The seller of such a substance typically will claim that the identity of the constituents is a trade secret. Many of these "proprietary inerts" are marketed in this manner today. EPA has allowed pesticide products containing such substances to be registered if the applicant for registration first arranged to have the supplier of the proprietary inert substance disclose its formula to EPA.

This practice poses problems in administering the data call-in and labeling requirements contemplated by this Notice. For instance, EPA may know that a proprietary inert substance contains a List 1 inert ingredient, but may be unable to disclose that fact to the registrants of the products that contain the proprietary substance. EPA obviously cannot require these registrants to list the inert ingredient on their labels, or subject them to a data requirement, until the confidentiality problem is overcome. The approaches set forth below address this problem.

A. Existing Registrations

If a product with an existing registration contains an inert of toxicological concern comprising part of a proprietary inert ingredient or mixture, the Agency will request the formulator of the ingredient or mixture to divulge the presence and identity of the inert of toxicological concern to the registrant so that the registrant can label the product properly. If the producer of the proprietary ingredient or mixture refuses to divulge this information, the Agency will require the formulator to justify the claim of confidential business information under 40 CFR Part 2. If EPA reviews the claim and determines that it is without merit, EPA will so inform the formulator of the ingredient or mixture. Thereafter, following the appropriate procedures in EPA regulations, EPA may inform registrants that the proprietary inert ingredient or mixture contains a specific ingredient. If EPA does not decide to disallow a CBI claim, EPA may none-the-less require, under FIFRA section 3(c)(2)(B), that the registrant provide EPA with information showing that the registrant knows the composition of the proprietary inert ingredient or mixture. In either case, once EPA has determined that a registrant is aware that his product contains an inert of toxicological concern which is present in a proprietary inert ingredient or mixture used to formulate the product, EPA will inform the registrant of the regulatory actions being initiated because of the presence of that inert ingredient.

B. Applications for New Registrations

If a registrant submits an application for a new use or identical or a substantially similar use containing an inert of toxicological concern as part of a proprietary inert ingredient or mixture, the Agency will notify the registrant that the product cannot be registered based on the inert ingredients which are contained in the formulation. It will be the responsibility of the registrant to contact the formulator/supplier of any proprietary ingredient or mixtures used in the pesticide formulation and determine the identity of the inert(s) of toxicological concern present in the pesticide formulation.

C. Registrant's Ongoing Responsibility for the Composition of Pesticide Products

Units VII.A. and VII.B. discuss the procedures the Agency will employ to ensure that a registrant is aware that his product contains an inert of toxicological concern as part of a proprietary inert ingredient or mixture. With the exception of knowing about the presence of inerts of toxicological concern, the Agency does not at this time plan to require that an applicant know or find out the composition of a proprietary inert ingredient or mixture in order to obtain registration. An applicant is, however, required to ensure that the Agency is informed of its composition by its producer.

In addition, the Agency does hold a registrant responsible for the certified limits of each inert ingredient in his product, including those that are present as part of a proprietary inert ingredient or mixture. An applicant who does not know the composition of an inert ingredient or mixture, and cannot persuade his supplier or producer to disclose it, may certify to an upper and lower limit of the ingredient or mixture as introduced into his product. In this case, the fact that the applicant uses a proprietary inert ingredient or mixture whose composition is not known to him does not remove his responsibility for maintaining the composition of each of those inert ingredients within its certified limits and assuring that the composition of the proprietary inert ingredient(s) or mixture(s) he uses will not change over time. EPA believes that a contractual arrangement between formulator and supplier is the best way to ensure that the formulator can rely on the composition of the material received, short of having direct knowledge of its composition.

Dated: April 13, 1987.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 87-8787 Filed 4-21-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30278; FRL-3189-8]

S.C. Johnson and Son, Inc., Applications To Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to conditionally register pesticide products involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by May 20, 1987

ADDRESS: By mail submit comments identified by the document control number [OPP-30278] and the file symbol to:

Information Services Section (TS-757C), Program Management and Support Division, Attn: Product Manager (PM) 17 Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

In person, bring comments to: Rm. 236, CM #2, Attn: PM 17 Registration Division (TS-767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Arturo Castillo, PM 17 (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to conditionally register pesticide products involving a changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Involving a Changed Pattern

1. File Symbol: 4822-EOU. Applicant: S.C. Johnson and Son, Inc., 1525 Howe St., Racine, WI 53403. Product name: Raid Fogger Plus. Insecticide. Active ingredient: Fenoxycarb ethyl [2-(p-phenoxyphenoxy)ethyl]carbamate 0.60%. Proposed classification/Use: General. For domestic indoor use to control roaches and fleas.

2. File Symbol: 4822-GNR. Applicant: S.C. Johnson and Son, Inc. Product name: Raid Roach and Ant Killer VI Plus. Insecticide. Active ingredient: Fenoxycarb 1.0%. Proposed classification/Use: General. For domestic indoor use to control roaches and ants.

3. File Symbol: 4822-GNE. Applicant: S.C. Johnson and Son, Inc. Product name: Raid Roach and Ant Killer III Plus. Insecticide. Active ingredient: Fenoxycarb 0.50%. Proposed classification/Use: General. For domestic indoor use to control roaches and ants.

4. File Symbol: 4822-EOO. Applicant S.C. Johnson and Son, Inc. Product name: Raid Roach and Ant Killer V Plus. Insecticide. Active ingredient: Fenoxycarb 1.0%. Proposed classification/Use: General. For domestic indoor use to control roaches and ants.

5. File Symbol: 4822-EOL. Applicant: S.C. Johnson and Son, Inc. Product name: Raid Fogger II Plus. Insecticide. Active ingredient: Fenoxycarb 1.20%. Proposed classification/Use: General. For domestic indoor use to control roaches and fleas.

6. File Symbol: 4822-EOI. Applicant: S.C. Johnson and Son, Inc., 1525 Howe St., Racine, WI 53403. Product name: Raid Roach and Ant Killer II Plus. Insecticide. Active ingredient: Fenoxycarb ethyl [2-(p-phenoxyphenoxy)ethyl]carbamate 0.5%. Proposed classification/Use: General. For domestic indoor use to control roaches and ants.

7 File Symbol: 4822-EOT. Applicant: S.C. Johnson and Son, Inc. Product name: Raid Roach and Ant Killer Plus. Insecticide. Active ingredient: Fenoxycarb 0.5%. Proposed classification/Use: General. For domestic indoor use to control roaches and ants.

8. File Symbol: 4822-EOA. Applicant: S.C. Johnson and Son, Inc. Product name: Raid Roach and Ant Killer IV Plus. Insecticide. Active ingredient: Fenoxycarb 1.0%. Proposed classification/Use: General. For domestic indoor use to control roaches and ants.

9. File Symbol: 4822-EOE. Applicant: S.C. Johnson and Son, Inc. Product name: Raid Flea Killer IV plus. Insecticide. Active ingredient: Fenoxycarb 0.15%. Proposed classification/Use: General. For domestic indoor use to control roaches and ants. Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703-557-3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: April 6, 1987

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-8781 Filed 4-21-87; 8:45 am]

BILLING CODE 6560-50-M

[SW H-FRL-3190-6]

Study of Joint Use of Vehicles for Transportation of Hazardous and Nonhazardous Materials

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of the report to Congress, Study of Joint Use of Vehicles for Transportation of Hazardous and Nonhazardous Materials. Section 118(j) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) directs the Administrator of EPA, in consultation with the Secretary of Transportation, to conduct a study of the problems associated with the joint use of vehicles for transportation of both hazardous materials and to submit a report, with recommendations, to Congress on the results of this study not later than 180 days after the enactment of SARA. This report satisfies this statutory mandate in SARA.

ADDRESS: Requests for copies of the report may be addressed to the U.S. Environmental Protection Agency, Public Information Center, PM-211B, Washington, DC 20460 or call (202) 646-6410. An additional source for availability is the U.S. Environmental Protection Agency, Center for Environmental Research Information, 26 West St. Clair St., Cincinnati, Ohio 45268; Tel (513) 569-7562.

FOR FURTHER INFORMATION CONTACT: Dr. K. Jack Kooyoomjian, Senior Project Officer, Response Standards and Criteria Branch, Emergency Division (WH-548B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or the RCRA/Superfund Hotline 1-800/424-9346; in the Washington, DC metropolitan area at 1-202/382-3000.

Jack W. McGraw,

Deputy Administrator.

[FR Doc. 87-9079 Filed 4-21-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-44019; FRL-3191-2]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces test data submissions received by EPA during January–March, 1987 from voluntary industry testing programs on certain chemical substances or groups of chemicals considered by EPA under section 4 of the Toxic Substances Control Act (TSCA).

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Telephone: (202) 554-1404.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires the EPA to issue a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a). In the **Federal Register** of June 30, 1986 (51 FR 23705), EPA issued procedures for entering into Enforceable Consent Agreements (ECAs) under section 4 of TSCA. Those procedures provide that EPA will follow the procedures specified in section 4(d) in providing notice of test data received pursuant to ECAs. In addition, EPA from time to time receives industry submissions of test data developed voluntarily (i.e., not under test rules or ECAs) on chemicals EPA has considered for testing under section 4. Although not required by section 4(d), EPA periodically issues notices of receipt of such test data.

I. Test Data Submissions

This notice announces test data submissions received during January–March, 1987 from such industry testing programs.

Table 1 lists the chemicals by CAS No., date received, submitter, and study.

TABLE 1—VOLUNTARY TEST DATA SUBMISSIONS UNDER TSCA SECTION 4, 2ND QUARTER (JANUARY–MARCH) FY 87

Chemical	CAS No.	Date Rec'd	Submitter	Study
2-Mercapto-benzothiazole	149-30-4	3/26/87	CMA [1]	Washing efficacy in removal from Fischer 344 male and female rats dosed topically.
2-Mercapto-benzothiazole	149-30-4	3/26/87	CMA	Washing efficacy in removal from female guinea pigs dosed topically.a
2-Mercapto-benzothiazole disulfide.	120-78-5	3/26/87	CMA	Washing efficacy in removal from Fischer 344 male and female rats dosed topically.
2-Mercapto-benzothiazole disulfide.	120-78-5	3/26/87	CMA	Washing efficacy in removal from female guinea pigs dosed topically.
2-Mercapto-benzothiazole	149-30-4	3/26/87	CMA	Disposition in Fischer 344 male and female rats dosed orally.
Calcium naphthenate	61789-36-4	3/30/87	Shell Oil Co.	Two-year cutaneous carcinogenicity study with oil additive SAP 011 and its carrier oil in female STCF mice.
Calcium naphthenate	61789-36-4	3/30/87	Shell Oil Co.	Sebaceous gland suppression test with SAP 011, an oil fraction, in female C3H mice.

[1] Chemical Manufacturers Association.

EPA has established a public record for this quarterly receipt for data notice (docket number OPTS-44019). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the OPTS Reading Room, NE-G004, 401 M St., SW., Washington, D.C. 20460.

Dated: April 13, 1987.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division.

[FR Doc. 87-9074 Filed 4-21-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Main Committee Meeting

April 14, 1987.

The Space WARC Advisory Committee will convene its next meeting on May 21, 1987 The Committee will be reviewing the work of the working groups and will be considering recommendations and advice to the Commission concerning U.S. Proposals and U.S. participation within the intersessional work program of the International Telecommunication Union in preparation for the second session in 1988. Detail regarding the date, place and agenda of the meeting are provided below.

Chairman: Ronald F. Stowe (202) 383–6433.

Vice Chairman: Stephen E. Doyle (916) 355-6941.

Date: Thursday, May 21, 1987

Time: 9:30 a.m.–4:00 p.m.

Location: Federal Communications Commission 1919 M Street, NW., Room 856, Washington, DC 20554.

Designated Federal Employee: Thomas S. Tycz (202) 632-3214.

Agenda: (1) Adoption of Agenda. (2) Approval of Minutes. (3) Status of ITU Preparatory Activities. (4) Working Group Reports. (5) Comments on Notice of Inquiry. (6) Recommendations for SWAC Report. (7) Date of Next Meeting. (8) Other Business. (9) Adjournment.

For additional information, please contact Thomas S. Tycz (202) 634-1860.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-8969 Filed 4-21-87; 8:45 am]

BILLING CODE 6712-01-M

[Report No. W-14]

Window Notice for the Filing of FM Broadcast Applications

Released: April 7, 1987.

Notice is hereby given that applications for vacant FM broadcast allotment(s) listed below may be submitted for filing during the period

beginning April 7 1987 and ending May 15, 1987 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

CHANNEL-281 A	
Tucson	AZ

CHANNEL-298 A	
Columbus	OH

CHANNEL-267 A	
Pine Bluff	AR
Idyllwild	CA
Milford	DE
Gooding	ID
Shelbyville	KY
South Fort Polk	LA
Albuquerque	NM
Stillwater	NY
Cameron	TX
Narrows	VA

CHANNEL-267 C	
Altamont	OR

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 87-8970 Filed 4-21-87; 8:45 am]
BILLING CODE 6712-01-M

Finding of Excessive Cable Television Leakage

April 3, 1987.

The Federal Communications Commission is concerned about the excessive levels of radio frequency (RF) energy leaking from cable television systems. Excessive leakage can cause harmful interference to communications users, including such safety-of-life services as aviation, police, and fire. An adequate monitoring and maintenance program by cable system operators can minimize the potential for interference problems.

FCC Rule § 76.605(a)(11) specifies the maximum permissible RF leakage limits. Section 76.601 of the Rules requires that cable television systems be designed, installed, and operated in a manner that fully complies with FCC Rules. To ensure compliance with the leakage limits, cable system operators should have a regular program for detecting, locating, and correcting leakage. Section 76.601(b)(1) requires most operators to make formal leakage measurements annually. In addition, §§ 76.614 and 76.619(d) require an ongoing program of monitoring for signal leakage at systems which utilize aviation frequencies. This program must substantially cover the entire plant at regular intervals. Excessive leaks which are detected are required to be documented and repaired.

The quantity and level of leaks found during our inspections indicate that many monitoring and maintenance programs are either inadequate or nonexistent. Cable television system operators are expected to make aggressive efforts to minimize leakage and comply with leakage limitations.

Failure to provide an adequate program of regular leakage monitoring and repair, as evidenced by system logs, leakage and other information found during an FCC inspection, may result in a monetory forfeiture for the willful violation of FCC monitoring rules. Leakage detected during an FCC inspection which could have been prevented, had an adequate monitoring program existed, may be also deemed willful and result in a forfeiture.

Questions concerning this matter should be directed to Ron Parver, Cable Televsion Branch, at 202-632-7480.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 87-8971 Filed 4-21-87; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Offer To Assist Insurers in Underwriting Flood Insurance Using the Standard Flood Insurance Policy

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency (FEMA).

ACTION: Notice to Offer to Assist Insurers in Underwriting Flood Insurance Using the Standard Flood Insurance Policy.

SUMMARY: The Federal Insurance Administration is publishing in this Notice the Financial Assistance/Subsidy Arrangement for 1987-1988 governing the duties and obligations of insurers participating in the Write-Your-Own Program (WYO) of the National Flood Insurance Program (NFIP). The Financial Assistance, Subsidy Arrangement sets forth the responsibilities of the Government to provide financial and technical assistance to the insurers. It is verbatim what is set out as Appendix A to 44 CFR Part 62 and is republished for information and convenience.

This Notice relates to the final rules which was published in the Federal Register on April 25, 1985, page 16236, regarding changes in the National Flood Insurance Program's regulations dealing with the issuance of flood insurance policies and the adjustment of claims and the establishment of a program of assistance to private sector property insurance companies in underwriting flood insurance using the Standard Flood Insurance Policy. In 1985, a copy of the offer to participate in the Arrangement was incorporated in a final rule and, this year, as in 1986, a copy of the offer is being published as a Notice.

DATE: The offer is effective upon publication in the Federal Register. The Financial Assistance/Subsidy Arrangement is effective with resect to flood insurance policies written under the Arrangement with an effective date *of October 1, 1987 and later.*

SUPPLEMENTARY INFORMATION: By way of background, the Federal Insurance Administration, working with insurance company executives, FEMA's Comptroller's Office and FEMA's Office of the Inspector General, addressed the operating and financial control procedures. The Statistical Plan, Accounting Procedures, and the Financial Control Plan were specifically referenced in the final rule, and, in addition, procedural manuals have been issued by the FIA in aid of implementation by the WYO companies of the procedures published in the final rule, such as the Flood Insurance Manual, Flood Insurance Adjuster's Manual, Rollover Procedures and FEMA Letter of Credit Procedures, all of which comprise the operating framework for the WYO Program.

The purposes of this Notice are:

(1) To offer, publicly, financial assistance to protect against underwriting losses resulting from floods on Standard Flood Insurance Policies written by private sector insurers;

(2) To provide a method by which the offer may be accepted; and

(3) To provide notice of the duties and obligations under the Financial Assistance/Subsidy Arrangement for the Arrangement year 1987-88.

Method of Acceptance of Offer

1. Acceptance of this offer shall be by telegraphed or mailed notice of acceptance or signed Arrangement to the Administrator prior to midnight EDT September 30, 1987

2. The telegraphed or mailed notice of acceptance to the Administrator must be authorized by an official of the insurance company who has the authority to enter into such arrangements.

3. A duly signed original copy of the Notice of Acceptance must be on filed with the Administrator by November 16, 1987.

4. If (1), (2) or (3) above are not satisfied, the acceptance will be considered by the Administrator as conditional and the commitment of NFIP resources to fulfill the "Undertaking of the Government" under Article IV of the Arrangement will take a lower priority than those needed to fulfill the requirement of the other participating insurance companies.

5. Send all acceptance of this offer to: FEMA, Attn: Federal Insurance Administrator, WYO Program, Washington, D.C. 20472.

Offer to Provide Financial Assistance

Pursuant to the provisions of the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4128, Reorganization Plan No. 3 of 1978 (3 CFR 1978 Comp., p. 329), E.O. 12127, dated March 31, 1979 (3 CFR 1979 Comp., p. 376), Delegation of Authority to Federal Insurance Administration, subject to all regulations promulgated thereunder and, to the duties, obligations and rights set forth in the Financial Assistance/Subsidy Arrangement as printed below, the Federal Insurance Administrator, hereinafter referred to as the "Administrator" offers to enter into the Financial Assistance/Subsidy Arrangement with any individual private sector property insurance company. This offer is effective only in a state in which such private sector insurance company is licensed to engage in the business of property insurance.

Federal Emergency Management Agency Federal Insurance Administration Financial Assistance/Subsidy Arrangement

Purpose: To assist the Company in Underwriting Flood Insurance using the Standard Flood Insurance Policy.

Accounting Date: Pursuant to section 1310 of the Act, a Letter of Credit shall be issued under Treasury Department Circular No. 1075, Revised, for payment as provided for herein from the National Flood Insurance Fund.

Effective Date: October 1, 1987.

Issued by: Federal Emergency Management Agency, Federal Insurance Administration, Washington, D.C. 20472.

Article I—Findings, Purpose, and Authority

Whereas, the Congress in its "Finding and Declaration of Purpose" in the National Flood Insurance Act of 1968, as amended, ("the Act") recognized the benefit of having the National Flood Insurance Program (the Program) carried out to the maximum extent practicable by the private insurance industry"; and

Whereas, the Federal Insurance Administration (FIA) recognizes this Arrangement as coming under the provisions of Section 1310 of the Act; and

Whereas, the goal of the FIA is to develop a program with the insurance industry where, over time, some risk-bearing role for the industry will evolve as intended by the Congress (Section 1304 of the Act); and

Whereas, the Program, as presently constituted and implemented, is subsidized, and the insurer (hereinafter the "Company") under this Arrangement shall charge rates estalished by the FIA; and

Whereas, this Arrangement will subsidize all flood policy losses by the Company; and

Whereas, this Financial Assistance/Subsidy Arrangement has been developed to involve individual Companies in the Program, the initial step of which is to explore ways in which any interested insurer may be able to write flood insurance under its own name; and

Whereas, one of the primary objectives of the Program is to provide coverage to the maximum number of structures at risk and because the insurance industry has marketing access through its existing facilities not directly available to the FIA, it has been concluded that coverage will be extended to those who would not otherwise be insured under the Program; and

Whereas, flood insurance policies issued subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act; and

Whereas, over time, and Program is designed to increase industry participation, and, accordingly, reduce or eliminate Government as the principal vehicle for delivering flood insurance to the public; and

Whereas, the direct beneficiaries of this Arrangement will be those Company policyholders and applicants for flood insurance who otherwise would not be covered against the peril of flood.

Now, therefore, the parties hereto mutually undertake the following:

Article II—Undertakings of the Company

A. In order to be eligible for assistance under this Arrangement the Company shall be responsible for:

1.0 Policy Administration, including

1.1 Community Eligibility/Rating Criteria

1.2 Policyholder Eligibility Determination

1.3 Policy Issuance

1.4 Policy Endorsements

1.5 Policy Cancellations

1.6 Policy Correspondence

1.7 Payment of Agents Commissions

The receipt, recording, control, timely deposit and disbursement of funds in connection with all the foregoing, and correspondence relating to the above in accordance with the Financial Control Plan requirements.

2.0 Claims processing in accordance with general Company standars. The FIA Claims Manual and Adjuster Management Outline, and Adjuster handbook can be used as guides by the Compahy, along with the National Flood Insurance Progam (NFIP) Write-Your-Own (WYO) Financial Control Plan, Claims Questions and Answer Manual, the Flood Insurance Claims Office (FICO) Manual and other instructional materials.

3.0 Reports

3.1 Monthly Financial Reporting and Statistical Transaction Reporting shall be in accordance with the requirements of National Flood Insurance Program Statistical Plan for the Write-Your-Own (WYO) program and the Financial Control Plan for business written undere the WYO Program. These data shall be validated/edited/audited in detail and shall be compared and balanced against Company financial reports.

3.2 Monthly financial reporting shall be prepared in accordance with the WYO Accounting Procedures.

3.3 The Company shall establish a program of self audit acceptable to the FIA or comply with the self audit program contained in the Financial Control Plan for business written under the WYO Program. The Company shall report the results of this self-audit to the FIA annually.

B. The Company shall use the following time standards of performance as a guide:

1.0 Application Processing—15 days (Note: If the policy cannot be mailed due to insufficient or erroneous information or insufficient funds, a request for correction or added monies shall be mailed within 10 days);

1.1 Renewal Processing—7 days;

1.2 Endorsement Processing—7 days;

1.3 Cancellation Processing—15 days;

1.4 Correspondence, Simple and/or Status Inquiries—7 days;

1.5 Correspondence, Complex Inquiries—20 days;

1.6 Supply, Materials, and Manual Requests—7 days;

1.7 Claims Draft Processing—7 days from completion of file examination;

1.8 Claims Adjustment—45 days average from receipt of Notice of Loss (or equivalent) through completion of examination.

1.9 For the elements of work enumerated above, the elapsed time shown is from date of receipt through date of mail out. Days means working, *not* calendar days.

In addition to the standards for timely performance set forth above, all functions performed by the Company shall be in accordance with the highest reasonably attainable quality standards generally utilized in the insurance and data processing industries.

These standards are for guidance. Although no immediate remedy for failure to meet them is provided under this Arrangement, nevertheless, performance under these standards can be a factor considered by the Federal Insurance Administrator (the Administrator) in determining the continuing participation of the Company in the Program.

C. The Company shall coordinate activities and provide information to the FIA or its designee on those occasions when a Flood Insurance Catastrophe Office is established.

D. Policy Issuance

1.0 The flood insurance subject to this Arrangement shall be only that insurance written by the Company in its own name pursuant to the Act.

2.0 The Company shall issue policies under the regulations prescribed by the Administrator in accordance with the Act;

3.0 All such policies of insurance shall conform to the regulations prescribed by the Administrator pursuant to the Act, and be issued on a form approved by the Administrator;

4.0 All policies shall be issued in consideration of such premiums and upon such terms and conditions and in such States or areas or subdivisions thereof as may be designated by the Administrator and only where the Company is licensed by State law to engage in the property insurance business;

5.0 The Administrator may require the Company to immediately discontinue issuing policies subject to this Arrangement in the event Congressional authorization or appropriation for the National Flood Insurance Program is withdrawn.

E. The Company shall establish a bank account, separate and apart from all other Company accounts, at a bank of its choosing for the collection, retention and disbursement of funds relating to its obligation under this Arrangement, less the Company's expenses as set forth in Article III, and the operation of the Letter of Credit established pursuant to Article IV (Reference: Article IV, Section A). The Company shall invest all funds held in the accounts established pursuant hereto, which funds are not necessary to meet current expenditures, in obligations of the United States Government. Such income as is derived from these investments shall be utilized to meet the obligations of the Company pursuant to flood insurance policies issued hereunder.

F The Company shall investigate, adjust, settle and defend all claims or losses arising from policies issued under this Arrangement. Payment of flood insurance claims by the Company shall be binding upon the FIA.

G. The Company may market flood insurance policies in any manner consistent with its customary method of operation.

Article III—Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds

A. The Company shall be liable for operating, administrative and production expenses, including any taxes, dividends, agent's commissions or any board, exchange or bureau assessments, or any other expense of whatever nature incurred by the Company in the performance of its obligations under this Arrangement.

B. The Company shall be entitled to withhold as operating and administrative expenses, other than agents or brokers commissions, an amount from the Company's written premium on the policies covered by this Arrangement in reimbursement of all of the Company's operating and administrative expenses, except for allocated and unallocated loss adjustment expenses described in C. below, which amount shall equal the average of industry expense ratios for "Other Acq." "Gen. Exp." and "Taxes" as published in the latest available (as of March 15 of the prior Arrangement year) "Best's Aggregates and Averages Property Casualty, Industry Underwriting—by Lines for Fire, Allied Lines, Farmowners Multiple Peril, Homeowners Multiple Peril, and Commercial Multiple Peril combined (weighted average using premiums earned as weights) calculated and promulgated by the Administrator. Premium income net of reimbursement (net premium income) shall be deposited in a special account for the payment of losses and loss adjustment expenses (see Article II, Section E).

The Company shall be entitled to withhold 15.0% of the Company's written premium on the policies covered by this Arrangement as the commission allowance to meet commissions and/or salaries of their insurance agents brokers, or other entities producing qualified flood insurance applications and other marketing expense.

With the agreement of the Administrator, the company may pay 3% of the company's written premium on the policies covered by this Arrangement for the right to obtain a reimbursement of state or municipal tax paid on the policies covered by this Arrangement.

C. Loss Adjustment Expenses shall be reimbursed as follows:

1. Unallocated loss adjustment shall be an expense reimbursement of 3.3% of the incurred loss (except that it does not include "incurred but not reported").

2. Allocated loss adjustment expense shall be reimbursed to the Company pursuant to Exhibit A, entitled "Fee Schedule."

3. Special allocated loss expenses shall be reimbursed to the Company for only those expenses the Company has obtained prior approval of the Administrator to incur.

D. Loss payments under policies of flood insurance shall be made by the Company from funds retained in the bank account established under Article II, Section E and, if such funds are depleted, from funds derived by drawing against the Letter of Credit established pursuant to Article IV

Loss payments may include payments as a result of awards or judgments for punitive damages arising under the scope of this Arrangement and policies of flood insurance issued pursuant to this Arrangement provided that prompt notice of any claim for punitive damages is received by the Assistant Administrator of the FIA's Office of Insurance Policy Analysis and Technical Services, along with a copy of any material pertinent to the claim for punitive damages.

E. Premium refunds to applicants and policyholders required pursuant to rules contained in the National Flood Insurance Program (NFIP) "Flood Insurance Manual" shall made by the Company from funds retained in the bank account established under Article II, Section E and, if such funds are depleted, from funds derived by drawing against the letter of Credit established pursuant to Article IV

Article IV—Undertakings of the Government

A Treasury Financial Communication System Letter(s) of Credit shall be established by the Federal Emergency Management Agency (FEMA) against which the Company may withdraw funds daily, if needed, pursuant to prescribed Federal Reserve Letter of Credit procedures as implemented by FEMA. The amounts of the authorizations will be increased as necessary to meet the obligations of the Company under Article III, Sections (C), (D), and (E). Request for funds shall be only when net premium income and income derived from investments and disinvestments have been depleted. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursement by the recipient organization for allowable Letter of Credit costs.

Request for payment on letters of Credit shall not ordinarily be drawn more frequently than daily nor in amounts less than $5,000, and in no case more than $5,000,000 unless so stated on the Letter of Credit. This letter of Credit may be drawn against the Company for any of the following reasons:

1. payment of claim as described in Article III, Section D; and

2. refunds to applicants and policyholders for insurance premium overpayment, or if the application for insurance is rejected or when cancellation or endorsement of a policy results in a premium refund as described in Article III, Section E; and

3. allocated and unallocated Loss Adjustment Expenses as described in Article III, Section C.

B. The FIA shall provide technical assistance to the Company as follows:

1. The FIA's policy and history concerning underwriting and claims handling.

2. A mechanism to assist in clarification of coverage and claims questions.

3. Other assistance as needed.

Article V—Commencement and Termination

A. Upon signature of authorized officials for both the Company and the FIA, this Arrangement shall be effective for the period October 1 through September 30. The FIA shall provide financial assitance only for policy applications and endorsements accepted by the Company during this period pursuant to the Program's effective date, underwriting and eligibility rules.

B. By June 1, of each year, the FIA shall publish in the Federal Register and make available to the Company the terms for the re-subscription of this Financial Assistance/Subsidy Arrangement. In the event the Company chooses not to re-subscribe, it shall notify the FIA to that effect by the following July 1.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, or the FIA chooses not to renew the Company's participation, the FIA, at its option, may require (1) the continued performance of this entire Arrangement for one (1) year following the effective expiration date only for those policies issued during the original term of this Arrangement, or any renewal thereof, or (2) require the transfer to the FIA of:

a. All data received, produced, and maintained through the life of the Company's participation in the Program; and

b. A plan for the orderly transfer to the FIA of any continuing responsibilities in administering the policies issued by the Company under the Program including provisions for coordination assistance; and

c. All claims and policy files, including those pertaining to receipts and disbursements which have occurred during the life of each policy. In the event of a transfer of the service provided, the Company shall provide the FIA with a report showing, on a policy basis, any amounts due from or payable to insureds, agents, brokers, and others as of the transition date.

D. Financial assistance under this Arrangements may be cancelled by the FIA in its entirety upon 30 days written notice to the Company by certified mail stating one of the following reasons for such cancellation: (1) fraud or misrepresentation by the Company subsequent to the inception of the contract, or (2) nonpayment to the FIA may require the transfer of data as shown in Section C., above. If transfer is required, the unearned expenses retained by the Company shall be remitted to the FIA.

F In the event that the Company is unable to, or otherwise fails to, carry out its obligations under this Arrangement by reason of any order or directive duly issued by the Department of Insurance of any Jurisdiction to which the Company is subject, the Company agrees to transfer, and the Government will accept, any and all WYO policies issued by the Company and in force as of the date of such inability or failure to perform. In such event the Government will assume all obligations and liabilities owned to policyholders under such policies arising before and after the date of transfer and the Company will immediately transfer to the Government all funds in its possession with respect to all such policies transferred and the unearned portion of the Company expenses for operating, administrative and loss adjustment on all such policies.

Article VI—Information and Annual Statements

The Company shall furnish to the FIA such summaries and analyses of information in its records as may be necessary to carry out the purposes of the National Flood Insurance Act of 1968, as amended, in such form as the FIA, in cooperation with the Company, shall prescribe. The Company shall be a property/casualty insurer domiciled in a State or territory of the United States. Upon request, the Company shall file with the FIA a true and correct copy of the Company's Fire and Casualty Annual Statement, and Insurance Expense Exhibit or amendments thereof, as filed with the State Insurance Authority of the Company's domiciliary State.

Article VII—Cash Management and Accounting

A. The FEMA shall make available to the Company during the entire term of this Arrangement and any continuation period required by FIA pursuant to Article V, Section C., the Letter of Credit provided for in Article IV drawn on a repository bank within the Federal Reserve System upon which the Company may draw for reimbursement of its expenses as set forth in Article IV which exceed net written premiums and interest income collected by the Company from the effective date of this Arrangement or continuation period to the date of the draw.

B. At the end of each fiscal year, the Company shall remit to the FIA any funds in excess of those required to meet expenses for loss and loss adjustment. Such liabilities shall be defined as liabilities established for case reserves and reserves established for losses incurred but not reported, plus $5,000.

C. In the event the Company elects not to participate in the Program in any subsequent fiscal year, the Company and FIA shall make a provional settlement of all amounts due or owing within three months of the termination of this Arrangement. This settlement shall include net premiumns collected, funds drawn on the Letter of Credit, and reserves for outstanding claims. The Company and FIA agree to make a final settlement of accounts for all obligations arising from this Arrangement within 18 months of its expiration or termination, except for contingent liabilities which

shall be listed by the Company. At the time of final settlement, the balance, if any, due the FIA or the Company shall be remitted by the other immediately and the operating year under this a arrangement shall be closed.

Article VIII—Arbitration

A. If any misunderstanding or dispute arises between the Company and the FIA with reference to any factual issue under any provisions of this Arrangement or with respect to the FIA's no-renewal of the Company's participation, other than as to legal liability under or interpretation of the standard flood insurance policy, such misunderstanding or dispute may be submitted to arbitration for a determination which shall be binding upon approval by the FIA. The Company and the FIA may agree on and appoint an arbitrator who shall investigate the subject of the misunderstanding or dispute and make a determination. If the Company and the FIA cannot agree on the appointment of an arbitrator, then two arbitrators shall be appointed, one to be chosen by the Company and one by the FIA.

The two arbitrators so chosen, if they are unable to reach an agreement, shall select a third arbitrator who shall act as umpire, and such umpire's determination shall become final only upon approval by the FIA.

The Company and the FIA shall bear in equal shares all expenses of the arbitration. Findings, proposed awards, and determinations resulting from arbitration proceedings carried out under this section, upon objection by FIA or the Company, shall be inadmissiable as evidence in any subsequent proceedings in any court of competent jurisdiction.

This Article shall indefinitely succeed the term of this Arrangement.

Article IX—Errors and Omissions

The parties shall not be liable to each other for damages caused by ordinary negligence arising out of any transaction or other performance under this Arrangement, nor for any inadvertent delay, error, or omission made in connection with any transaction under this Arrangement, provided that such delay, error, or omission is rectified by the responsible party as soon as possible after discovery.

Article X—Officials Not to Benefit

No Member or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Arrangement, or to any benefit that may rise therefrom; but this provision shall not be construed to extend to this Arrangement if made with a corporation for its general benefit.

Article XI—Offset

At the settlement of accounts the Company and the FIA shall have, and may exercise, the right to offset any balance or balances, whether on account of premiums, commissions, losses, loss adjustment expenses, salvage, or otherwise due one party to the other, its successors or assigns, hereunder or under any other Arrangements heretofore or hereafter entered into between the Company and the FIA. This right of offset shall not be affected or diminished because of insolvency of the Company.

All debts or credits of the same class, whether liquidated or unliquidated, in favor of or against either party to this Arrangement on the date of entry, or any order of conservation, receivership, or liquidation, shall be deemed to be mutual debts and credits and shall be offset with the balance only to be allowed or paid. No offset shall be allowed where a conservator, receiver, or liquidator has been appointed and where an obligation was purchased by or transferred to a party hereunder to be used as an offset. Although a claim on the part of either party against the other may be unliquidated or undetermined in amount on the date of the entry of the order, such claim will be regarded as being in existence as of the date of such order and any credits or claims of the same class then in existence and held by the other party may be offset against it.

Article XII—Equal Opportunity

The Company shall not discriminate against any applicant for insurance because of race, color, religion, sex, age, handicap, marital status, or national origin.

Article XIII—Restriction on Other Flood Insurance

As a condition of entering into this Arrangement the Company agrees that in any area in which the Administrator authorizes the purchase of flood insurance pursuant to the Program, all flood insurance offered and sold by the Company to persons eligible to buy pursuant to the Program for coverages available under the Program shall be written pursuant to this Arrangement.

However, this restriction applies solely to policies providing only flood insurance. It does not apply to policies provided by the Company of which flood is one of the several perils covered, or where the flood insurance coverage amount is over and above the limits of liability available to the insured under the Program.

Article XIV—Access to Books and Records

The FIA and the Comptroller General of the United States, or their duly authorized representatives, for the purpose of investigation, audit, and examination, shall have access to any books, documents, papers and records of the Company that are pertinent to this Arrangement. The Company shall keep records which fully disclose all matters pertinent to this Arrangement, including premiums and claims paid or payable under policies issued pursuant to this Arrangement. Records of accounts and records relating to financial assistance shall be retained and available for three (3) years after final settlement of accounts, and to financial assistance, three (3) years after final adjustment of such claims. The FIA shall have access to policyholder and claim records at all times for purposes of the review, defense, examination, adjustment, or investigation of any claim under a flood insurance policy subject to this Arrangement.

Article XV—Compliance with Act and Regulations

This Arrangement and all policies of insurance issued pursuant thereto shall be subject to the provisions of the National Flood Insurance Act of 1968, as amended, the Flood Disaster Protection Act of 1973, as amended, and Regulations issued pursuant thereto and all Regulations affecting the work that are issued pursuant thereto, during the term hereof.

Article XVI—Relationship Between the Parties (Federal Government and Company) and the Insured

Inasmuch as the Federal Government is a guarantor hereunder, the primary relationship between the Company and the Federal Government is one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended.

The Company is not the agent of the Federal Government. The Company is solely responsible for its obligations to its insured under any flood policy issued pursuant hereto.

In witness whereof, the parties hereto have accepted this Arrangement on this ____ day of _____, 1986.

Company

The United States of America Federal Emergency Management Agency.

by _____

(Title)

by _____

(Title)

Notice of Acceptance for Federal Emergency Management Agency Federal Insurance Administration

Financial Assistance/Subsidy Arrangement (Arrangement)

Whereas, in 1986, there was published a Notice of Offer by the Federal Emergency Management Agency to enter into a Financial Assistance/Subsidy Arrangement (hereafter, the Arrangement).

Whereas, the above cited Arrangement, as published in and reprinted from the Federal Register, does not provide sufficient space to type in the name of the company.

Whereas, the Arrangement may include several individual companies within a Company Group and the Arrangement as published in and reprinted from the Federal Register does not provide sufficient space to type in a list of companies.

Therefore, the parties hereby agree that this Notice of Acceptance form is incorporated into and is an integral part of the entire Arrangement and is substituted in place of the signature block contained in the Federal Register under Article XVI of the Arrangement. The above mentioned Arrangement is effective in the States in which the insurance company(ies) listed below is (are) duly licensed to engage in the business of property insurance:

_____

_____

_____

_____

_____

_____

_____

In witness, whereof, the parties hereto have accepted the Arrangement on this ____ day of _____, ____.

The United States of America, Federal Emergency Management Agency.

By: _____
Title: _____
By: _____
Title: _____

Exhibit A

FEE SCHEDULE

Range (by covered loss)	Fee
Erroneous assignment	$40.00
CWP	70.00
$0.01 to $200.00	70.00
$200.01 to $400.00	90.00
$400.01 to $600.00	110.00
$600.01 to $800.00	130.00
$800.01 to $1,000.00	150.00
$1,000.01 to $1,500.00	180.00
$1,500.01 to $2,000.00	200.00
$2,000.01 to $2,500.00	220.00
$2,500.01 to $3,000.00	240.00

FEE SCHEDULE—Continued

Range (by covered loss)	Fee
$3,000.01 to $3,500.00	260.00
$3,500.01 to $4,000.00	280.00
$4,000.01 to $4,500.00	300.00
$4,500.01 to $5,000.00	320.00
$5,000.01 to $6,000.00	350.00
$6,000.01 to $7,000.00	370.00
$7,000.01 to $8,000.00	380.00
$8,000.01 to $9,000.00	400.00
$9,000.01 to $10,000.00	420.00
$10,000.01 to $15,000.00	460.00
$15,000.01 to $20,000.00	490.00
$20,000.01 to $25,000.00	520.00
$25,000.01 to $30,000.00	550.00
$30,000.01 to $35,000.00	580.00
$35,000.01 to $40,000.00	610.00
$40,000.01 to $45,000.00	640.00
$45,000.01 to $50,000.00	670.00
$50,000.01 to $75,000.00	800.00
$75,000.01 to $100,000.00	950.00
$100,000.01 to $125,000.00	1,100.00
$125,000.01 to $150,000.00	1,250.00
$150,000.01 to $175,000.00	1,400.00
$175,000.01 to $200,000.00	1,550.00
$200,000.01 to limits	1,700.00

Allocated fee schedule entry value is the covered loss under the policy based on the standard deductibles ($500 and $50) and limited to the amount of insurance purchased.

Harold T. Duryee,

Federal Insurance Administrator.

[FR Doc. 87-8990 Filed 4-21-87; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

Citicorp; Proposal To Underwrite and Deal in Commercial Paper to a Limited Extent

Citicorp, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage *de novo* through its wholly owned subsidiary, Citicorp Securities, Inc. ("CSI"), in the activities of underwriting and dealing in, to a limited degree, commercial paper to the extent that such security is currently eligible for ownership, but not for underwriting or dealing in by member banks.

CSI currently underwrites and deals in securities that member banks are permitted to inderwrite and deal in under the Glass-Steagall Act ("eligible securities") (U.S. government securities, general obligations of states and municipalities and certain money market instruments), as permitted by § 225.25(b)(16) of Regulation Y (12 CFR 225.25(b)(16)).

CSI would conduct these activities on a nationwide basis from its offices located in New York, Houston, San Francisco, Miami and Chicago.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding Company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has previously approved underwriting and dealing in commercial paper by a bank holding company in *The Chase Manhattan Corporation*, 73 Federal Reserve Bulletin ____ (Order dated March 18, 1987).

In determining whether a particular activity is a proper incident to banking, the Board considers whether the performance of the activity by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices. Citicorp maintains that permitting it it engage in the proposed activities would be procompetitive and would establish a new source of income, increase liquidity of bank balance sheets, and thereby increase bank safety and soundness. In addition, Citicorp believes the proposal would not result in adverse effects.

The application presents issues under section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as Citibank, with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities.

Citicorp states that it would not be "engaged principally" in such activities on the basis of restrictions that would limit the amount of the proposed activity relative to the total business conducted by CSI relative to the total market in such activity.

Citicorp has committed that it will limit CSI's proposed activities with regard to commercial paper according to the same percentage limitations as contained in its application of March, 1985, regarding other investment securities (50 FR 20847). Under these limitation, Citicorp would limit the sales volume of CSI's proposed activities in the first year to no more than five percent of CSI's total underwriting and dealing in all securities (both eligible and ineligible), to no more than seven percent in the second year, and to no more than ten percent beginning in the third year. Citicorp further commits to limit CSI's underwriting of commercial paper in any calendar year to three

percent of the total amount of such securities underwritten domestically by all firms during the previous calendar year and will limit CSI's dealing activities so that at no time will CSI hold for dealing commercial paper in excess of three percent of the total amount of commercial paper underwritten by all firms domestically during the previous calendar year.

Any request for a hearing on this application must comply with section 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors of the Federal Reserve Bank of New York.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than May 8, 1987

Board of Governors of the Federal Reserve System, April 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-8231 Filed 4-21-87; 8:58 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Organization, Functions and Delegations of Authority; Public Health Service

Part H, Public Health Service (PHS), of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services is amended to revise Chapter HA (Office of the Assistant Secretary for Health) and Chapter HC (Centers for Disease Control). This revision will reflect the transfer of the National Center for Health Statistics (NCHS) from the Office of the Assistant Secretary for Health (OASH) to the Centers for Disease Control (CDC). This transfer will strengthen the national Center for Health Statistics by placing it in an organization environment more closely related to its mission and orientation. Specifically:

(1) The statement of the Office of the Assistant Secretary for Health (42 FR 61318, December 2, 1977 as amended most recently at 52 FR 1972-73, January 16, 1987) is amended to delete the title and statement for the National Center for Health Statistics (HAS). The responsibilities of this Center are transferred to the Centers for Disease Control.

(2) The statement for the CDC (45 FR 67772-67776, October 14, 1980 and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 52 FR 6221, March 2, 1987) is amended to reflect the transfer of functions of the National Center for Health Statistics to the Centers for Disease Control.

Office of the Assistant Secretary for Health

Under Part H, Chapter HA, Office of the Assistant Secretary for Health, HA-10, Organization, delete item (11), NCHS (HAS). Renumber items (12) through (17) as items (11) through (16).

Under Section HA-20, Functions, delete the title and statement for the *National Center for Health Statistics (HAS).*

Section HA-30, Delegations of Authority. All delegations and redelegations of authority made to PHS officials which were in effect prior to the effective date of this reorganization shall continue in effect pending further redelegations.

Centers for Disease Control

Under Part H, Chapter HC, Centers for Disease Control, Section HC-B, Organization and Functions, after (HCR) add the following title and statement for the National Center for Health Statistics:

National Center for Health Statistics (HCS). (1) Provides national leadership in health statistics on vital events and health activities, including the physical, mental, and physiological characteristics of the population, illness, injury, impairment, the supply and utilization of health facilities and manpower, the operations of the health services system: Health costs and expenditures, changes in the health status of people, and environmental, social and other health hazards; (3) administers the Cooperative Health Statistics System; (4) stimulates and conducts basic and applied research in health data systems and statistical methodology; (5) coordinates to the maximum extent feasible, the overall health statistical and epidemiological activities of the program and agencies of PHS and provides technical assistance in the planning, management and evaluation of statistical programs of PHS; (6) maintains operational liaison with statistical units of other health agencies, public and private, and provides technical assistance within the limitations of staff resources; (7) fosters research, consultation and training programs in international statistical activities; (8) participates in the development of national health statistics policy with other Federal agencies; (9) directs the environmental and epidemiological statistics programs of the Center; and (10) in its role as the Government's principal general-purpose health statistics organization as designated by the Office of Management and Budget, provides the Assistant Secretary for Health with consultation and advice on statistical matters.

Approval Date: April 2, 1987.

Otis R. Bowen, M.D.,

Secretary.

[FR Doc. 87-8993 Filed 4-21-87; 8:45 am]

BILLING CODE 4160-17-M

National Institutes of Health

National Center for Nursing Research; Advisory Council Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Center for Nursing Research Advisory Council, National Center for Nursing Research, June 8-9, 1987, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on June 8, from 9:00 am to recess. Agenda items to be discussed will include the Director's Report, the Federal Budget process, Human and Animal Welfare, Freedom of Information Act and the Privacy Act, and Nursing Research Priorities. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code section 10(d)) of Pub. L. 92-463, the meeting will be closed to the public on June 9, 9:00 am to completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The meeting will be open on June 9, immediately following the review of applications, if any policy issues are raised which need further discussion.

Mrs. Ruth K. Aladj, Executive Secretary, National Center for Nursing Research Advisory Council, National Institutes of Health, Building 38A, Room B2E17 Bethesda, Maryland 20894, (301) 496-0523, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: April 13, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-9048 Filed 4-21-87; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of the Cancer Research Manpower Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Research Manpower Review Committee, National Cancer Institute, National Institutes of Health, June 18-19, 1987 Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on June 18 at 8:30 a.m. to 9 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 18 from 9 a.m. to recess and on June 19 at 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892 (301/496-5708) will provide summary of the meeting, roster of Committee members, and substantive program information upon request.

Ms. Cynthia Sewell, Executive Secretary, Westwood Building, 5333 Westbard Avenue, Room 838, Bethesda, Maryland 20892 (301/496-7721) will provide other information pertaining to the meeting.

Dated: April 13, 1987.

Betty J. Beveridge,

Committee Management Office, NIH.

[FR Doc. 87-9045 Filed 4-21-87; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Grant Review Committee, National Cancer Institute, on April 29-May 1, 1987, Holiday Inn, Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

This meeting will be open to the public on April 29 from 7:30 p.m. to 8 p.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in secs. 552(c)(4) and 552(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on April 29 from approximately 8 p.m. to recess, and from 8 a.m. on April 30 to adjournment on May 1 for the review, discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Carolyn Strete, Executive Secretary, Cancer Control Grant Review Committee, National Cancer Institute, Westwood Building, Room 810, National Institutes of Health, Bethesda, Maryland 20892 (301/496-2378) will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting due to the late arrival of 80 grant applications which are to be reviewed at the next National Cancer Advisory Board Meeting.

(Catalog of Federal Domestic Assistance number 13.399, project grants and contracts in cancer control, National Institutes of Health)

Dated: April 13, 1987.

Betty J. Beveridge;

Committee Managment Officer, NIH.

[FR Doc. 87-9042 Filed 4-21-87; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of the Frederick Cancer Research Facility Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Frederick Cancer Research Facility Advisory Committee, National Cancer Institute, May 7-8, 1987 Building 549, Executive Board Room, at the Frederick Cancer Research Facility, Frederick, Maryland 21701.

The meeting will be open to the public on May 7 from 8:30 a.m. to 9:30 a.m. to discuss administrative matters, future meetings, and to hear the Deputy Director's report on items of interest to NCI and the Committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 7 from 9:30 a.m. to recess and on May 8 from 8:30 a.m. to adjournment for the review, discussion and evaluation of research being conducted by the Basic Research Program, Molecular Mechanisms of Carcinogenesis Laboratory. These discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contractor, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301, 496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Cedric W. Long, Executive Secretary, Frederick Cancer Research Facility Advisory Committee, National Cancer Institute, Frederick Cancer Research Facility, Building 427 Frederick, Maryland 21701 (301, 698-1108) will provide substantive program information upon request.

Dated: April 13, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-9043 Filed 4-21-87; 8:45 am]

BILLING CODE 4140-01-M

National Institutes of Health; National Heart, Lung, and Blood Institute; Meeting of the Heart, Lung, and Blood Research Review Committee A

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 25-26, 1987 in Building 31, Conference Room 7 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on June 25 from 8 a.m. to approximately 10 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood

Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 25, from approximately 10 a.m. until adjournment on June 26 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Peter M. Spooner, Executive Secretary, Heart, Lung, and Blood Research Review Committee A, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health)

Dated: April 13, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–9466 Filed 4–21–87; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute, Meeting of the Heart, Lung, and Blood Research Review Committee B

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, on June 25, 1987, in Building 31, Conference Room 9.

This meeting will be open to the public on June 25 from 8 a.m. to approximately 10 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and sec. 10(d) Pub. L. 92–463, the meeting will be closed to the public from approximately 10 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A31, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 13, 1987.

Betty J. Beveridge,

NIH Committee Management Officer, NIH.

[FR Doc. 87–9047 Filed 4–21–87; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Trials Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, June 16–18, 1987 at the Bethesda Ramada Hotel, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting will be open to the public on June 16, from 7:30 p.m. to approximately 8 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 16 from approximately 8 p.m. to recess, and from 8 a.m. on June 17 to adjournment on June 18, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under secs. 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Norman S. Braveman, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, Westwood Building, Room 5508, Bethesda, Maryland 20892, phone (301) 496–7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 13, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–9050 Filed 4–21–87; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Arthritis and Musculoskeletal and Skin Diseases; National Arthritis and Musculoskeletal and Skin Diseases Advisory Council Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council to provide advice to the National Institute of Arthritis and Musculoskeletal and Skin Diseases on May 20 and 21, 1987 Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public May 20 from 8:30 a.m. to 12 noon to discuss administrative details relating to Council business and special reports. Attendance by the public will be limited to space available.

The meeting of the Advisory Council will be closed to the public on May 20 from 1 p.m. to adjournment and again on May 21 from 8:30 a.m. to adjournment at approximately 12 noon in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the

review, discussion and evaluation of individual grant applications. These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Acting Executive Secretary, National Arthritis and Musculoskeletal and Skin Disease Advistory Council, MIAMS, Westwood Building, Room 657 Bethesda, Maryland 20892, (301) 496-7277

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIAMS, Building 31, Room 9A19, National Institutes of Health, Bethesda, Maryland 20892, (310) 496-6917

(Catalog of Federal Domestic Assistance Program No. 13.846, Arthritis, Bone and Skin Diseases, National Institutes of Health)

Dated: April 13, 1987.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 87-9041 Filed 4-21-87; 8:45 am]

BILLING CODE 4140-01-M

Institute of Dental Research; Meeting of the NIDR Special Grants Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Special Grants Review Committee, National Institute of Dental Research, June 2-3, 1987 in the Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815. The Committee will meet in the Palladian East Room on June 2 and in the Chase Room on June 3. The meeting will be open to the public from 9 a.m. to 9:30 a.m. on June 2 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 2 from 9:30 a.m. to recess and on June 3 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Rose Marie Petrucelli, Executive Secretary, NIDR Special Grants Review Committee, NIH, Westwood Building, Room 519, Bethesda, MD 20892, (telephone 301/496-7658) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Fe deral Domestic Assistance Program Nos. 13.121-Diseases of the Teeth and Supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13-122-Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13-845-Dental Research Institutes; National Institutes of Health)

Dated: April 13, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-9044 Filed 4-21-87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Notice of Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for June 1987

These meetings will be open to the public to discuss administrative details relating to committee business for approximately two hours at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

These meetings will be closed thereafter in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual research training grant and research center grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892 (Telephone: 301-496-7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Minority Access to Research Careers Review Committee.

Executive Secretary: Dr. Agnes Donahue, Room 949 Westwood Building, Telephone: 301-496-7585.

Dates of Meeting: June 11-12, 1987

Place of Meeting: Building 31C, Conference Room 7 National Institutes of Health, Bethesda, Maryland.

Open: June 11, 1987 8:30 a.m.-10:30 a.m.

Closed: June 11, 1987 10:30 a.m.-5:00 p.m., June 12, 1987 8:30 a.m.—adjournment.

Name of Committee: Cellular and Molecular Basis of Disease Review Committee.

Executive Secretary: Dr. Helen Sunshine, Room 950 Westwood Building, Telephone: 301-496-7125.

Dates of Meeting: June 15-16, 1987

Place of Meeting: Building 31C, Conference Room 7 National Institutes of Health, Bethesda, Maryland.

Open: June 15, 1987 8:30 a.m.-10:30 a.m.

Closed: June 15, 1987 10:30 a.m.-5:00 p.m., June 16, 1987, 8:30 a.m.—adjournment.

Name of Committee: Genetic Basis of Disease Review Committee.

Executive Secretary: Ms. Linda Engel, Room 950 Westwood Building, Telephone: 301-496-7125.

Dates of Meeting: June 19, 1987

Place of Meeting: Building 31, Conference Room 4, National Institutes of Health, Bethesda, Maryland.

Open: June 19, 1987, 8:30 a.m.-10:30 a.m.

Closed: June 19, 1987 10:30 a.m.—adjournment.

Name of Committee: Pharmacological Sciences Review Committee.

Executive Secretary: Dr. Rodney Ulane, Room 952 Westwood Building, Telephone: 301-496-4772.

Dates of Meeting: June 29-30, 1987

Place of Meeting: Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

Open: June 29, 1987 8:30 a.m.-10:30 a.m.

Closed: June 29, 1987 10:30 a.m.-5:00 p.m., June 30, 1987, 8:30 a.m.—adjournment.

(Catalog of Federal Domestic Assistance Program No. 13-859, 13-862, 13-863, 13-880, National Institute of General Medical Sciences, National Institutes of Health)

Dated: April 13, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-9049 Filed 4-21-87; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Utah U-55679 (UT-040-07-4212-13)]

Realty Action; Exchange of Public and Private Lands in Iron County

AGENCY: Bureau of Land Management, Interior.

ACTION: It is proposed to exchange public lands in the E½, E½E½NW¼, Sec. 23 and E½, Sec. 26, T. 32 S., R. 13 W., SLB&M, totaling 680 acres, for non-federal land owned by Nelson and Melvin Bulloch in the N½, Sec. 28 and E½, Sec. 29, T. 33 S., R. 13 W., SLB&M, totaling 640 acres. The exchange of public lands is authorized by the provision of section 206 of the Federal Land Policy and Management Act of 1976 (43 USC 1716). The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

SUMMARY: The purpose of this exchange is to promote the orderly administration of public and private land. The lands exchanged are of equal value.

DATE: Comments should be submitted on or before June 8, 1987

ADDRESS: Comments should be sent to: Area Manager, Beaver River Resource Area Office, Bureau of Land Management, 444 South Main, Suite C-3, Cedar City, Utah 84720.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the exchange are:

1. There is reserved to the United States, a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, (43 U.S.C. 945).

2. The Exchange will be of the surface estate only with all mineral rights being retained by the United States.

3. Title transfer will be subject to valid existing rights including oil and gas lease U-32809.

Any comments received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any objections, this realty action notice will become the final determination of the Department of the Interior.

Dated: April 10, 1987

Morgan S. Jensen,

District Manager.

[FR Doc. 87-8948 Filed 4-21-87; 8:45 am]

BILLING CODE 4310-DQ-M

[WY-940-07-4520-12]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of plats of survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 A.M., April 13, 1987

Sixth Principal Meridian

T. 46 N., R. 71 W.

The plat representing the dependent resurvey of a portion of the east boundary, the south and west boundaries, and the subdivisional lines, T. 46 N., R. 71 W., Sixth Principal Meridian, Wyoming, Group No. 457, was accepted April 1, 1987.

T. 47 N., R. 71 W.

The plat representing the dependent resurvey of the south and west boundaries, and the subdivisional lines, T. 47 N., R. 71 W., Sixth Principal Meridian, Wyoming, Group No. 451, was accepted April 1, 1987.

T. 26 N., R. 85 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of certain sections, T. 26 N., R. 85 W., Sixth Principal Meridian, Wyoming, Group No. 470, was accepted April 1, 1987.

T. 31 N., R. 95 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, T. 31 N., R. 95 W., Sixth Principal Meridian, Wyoming, Group No. 467, was accepted April 1, 1987.

These surveys were executed to meet certain administrative needs of this Bureau.

T. 54 N., R. 85 W.

The plat representing the dependent resurvey of the subdivisional lines and the subdivision of section 29, and the survey of the subdivision of section 29, T. 54 N., R. 85 W., Sixth Principal Meridian, Wyoming, Group No. 454, was accepted April 1, 1987.

T. 31 N., R. 100 W.

The plat representing the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines, and the subdivision of section 34, T. 31 N., R. 100 W., Sixth Principal Meridian, Wyoming, Group No. 494, was accepted April 1, 1987

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: April 14, 1987.

Dennis D. Bland,

Acting Chief Cadastral Surveyor for Wyoming.

[FR Doc. 87-8949 Filed 4-21-87; 8:45 am]

BILLING CODE 4310-22-M

[AA-250-07-4321-02]

Draft Wild Horse and Burro Program Policy Statement; Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Draft Wild Horse and Burro Program Policy Statement.

SUMMARY: The purpose of this notice is to inform the public of the availability of a draft wild horse and burro program policy statement and to solicit public comment on the draft.

DATE: All comments must be received by May 22, 1987

DATES: The mailing address to request a copy of the draft policy statement is as follows: Division of Wild Horses and Burror (250), Bureau of Land Management, Premier Building, Room 901, Washington, DC 20240.

FOR FURTHER INFORMATION, CONTACT: John S. Boyles Chief, Division of Wild Horses and Burros (250), Bureau of Land Management, Premier Building, Room 901, Washington, DC 20240; telephone (202) 653-9215.

SUPPLEMENTARY INFORMATION: The draft policy statement provides for more efficient administration of the Wild Free-Roaming Horse and Burro Act (Pub. L. 92-195, as amended) and ensures humane treatment of the animals. The draft incorporates the recommendations of the national Wild Horse and Burro Advisory Board, which was established by the Secretaries of the Interior and Agriculture in February 1986. The Board met four times to hear testimony and gather data on issues affecting the administration of Pub. L. 92-195. The Board presented its report to the Secretaries in December 1986.

Dated: April 15, 1987

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 87-9015 Filed 4-21-87; 9:27 am]

BILLING CODE 4310-84-M

[CO-940-07-4220-11; C-020060]

Colorado; Proposed Continuation of Withdrawal

April 9, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that the order which withdrew lands for an indefinite period of time for the Deep Lake Recreation Area, be modified and the withdrawal be continued for 20 years insofar as it affects approximately 185 acres of National Forest System land. The land will remain closed to surface entry and mining, but not to mineral leasing.

DATE: Comments should be received on or before July 21, 1987

ADDRESS: Comments should be addressed to State Director, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, (303) 236-1768.

The Forest Service, U.S. Department of Agriculture, proposes that the existing withdrawal made by Public Land Order 1611, dated April 4, 1958, for an indefinate period of time, be modified to expire in 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. This order affects lands in T. 3 S., R. 88 W., Sixth Principal Meridian, Colorado. This area aggregates approximately 185.00 acres of land in the White River National Forest, Garfield County, Colorado.

The purpose of this withdrawal is for the administration and protection of the Deep Lake Recreation Area. No change is proposed in the purpose or segregative effect of the withdrawal. The land will continue to be withdrawn from surface entry and mining, but not from mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of the final determination will be published in the **Federal Register**. The existing withdrawal will continue until such determination is made.

Evelyn W. Axelson,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-8951 Filed 4-21-87; 8:45 am]

BILLING CODE 4310-JB-M

[CO-940-07-4220-10; C-44206]

Colorado; Cancellation of Withdrawal Application

April 13, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, has canceled withdrawal application C-44206. This notice will terminate the segregation imposed by this application; however, all of the lands remain closed to surface entry by other actions. The lands have been and remain open to mineral leasing.

DATE: April 22, 1987.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215, (303) 236-1768.

Notice is hereby given that the segregation imposed by Notice of Proposed Withdrawal published September 4, 1986, 51 Fed. Reg. 31725, 31726 (1986) (FR Doc. 86-19897), as amended, is terminated and the case closed.

Evelyn W. Axelson,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-8950 Filed 4-21-87; 8:45 am]

BILLING CODE 4310-JB-M

[NM-940-07-4220-11; NM NM 1180]

New Mexico; Proposed Withdrawal Continuation; Correction

Notice of Proposed Withdrawal Continuation under Serial No. NM NM 1180 appearing as FR Doc. 81-11377 (filed April 14, 1981) April 15, 1981, issue of the **Federal Register** on pages 22042-22043, line 18 is modified to include "for a period of 25 years" following the word "entirety." Line 50 is corrected to read section 17, Tracts A and B HES 414. instead of section 17 Tracts A and B HES 44.

Dated: April 13, 1987.

Dennis R. Erhart,

Acting Deputy State Director, Operations.

[FR Doc. 87-8952 Filed 4-21-87; 8:45 am]

BILLING CODE 4310-FB-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properites being considered for listing in the National Register were received by the National Park Service before April 11, 1987 Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by May 6, 1987

Beth Grosvenor,

Acting Chief of Registration, National Register.

ALASKA

Ketchikan Gateway

Ketchikan, *First Lutheran Church*, 1200 Tongass Ave.

GEORGIA

Clarke County

Athens, *Young Women's Christian Association Complex*, 345-347 W. Hancock St.

HAWAII

Hawaii County

Paauhau, *Paauhau Plantation House*, Paauhau Mauka

Honolulu County

Pohaku Lanai (50-OA-226)
Tsoong Nyee Society Cook House
Honolulu, *Jones Austin, Residence*, 2230 Kamehameha Ave.

ILLINOIS

Brown County

Mount Sterling, *Mount Sterling Commercial Historic District*, Roughly bounded by Brown City.
Courthouse, Alley on East, South St., and Alley on West

MARYLAND

Baltimore (Independent City)
Baltimore College of Dental Surgery, 429-433 N. Eutaw St.

NEVADA

Carson (Independent City)
Kitzmeyer Furniture Factory, 319 N. Carson St.

NORTH CAROLINA

Bladen County

Elizabethtown vicinity, *Mt. Horeb Presbyterian Church and Cemetery*, SW corner of NC 87 and SR 1717 Jct.

OHIO

Franklin County

Lockbourne vicinity, *Landes, Samuel, House*, 590 Hibbs Rd.

Hamilton County

Cincinnati, *Laurel Homes Historic District*, Roughly bounded by Liberty and John Sts., Ezzard Charles Dr., and Linn St.

Harrison County

New Athens, *Franklin College Building No. 5*, Main St.

Lucas County

Toledo, *Valentine Theater Building*, 405–419 St. Clair and 402—412 Adams

Stark County

Massillon, *First National Bank Building*, 11 Lincoln Way W.

Wood County

Bowling Green, *Boom Town Historic District*, Roughly bounded by W. Wooster, S. Church, N. Grove, N. Maple, and Buttonwood

PUERTO RICO

San Juan County

Old San Juan, *US Post Office & Courthouse*, Block bounded by Calle San Justo, Calle Tanca, Calle Commercio, and Calle Recinto Sur

VIRGINIA

Amelia County

Chula vicinity, *Dykeland*, VA 632

Culpeper County

Rapidan, *Rapidan Historic District*, Jct. of VA 614, VA 615, and VA 673

Westmoreland County

Colonia Beach, *Bell House*, 821 Irving Ave.

WASHINGTON

Kittitas County

Ellensburg, *First Railroad Addition Historic District*, Roughly bounced by Tenth Ave., D St., Ninth Ave., and A St.

Thurston County

Olympia, *Funk House*, 1201 E. Olympia Ave.
Olympia, *LOTUS (motor vessels)*, Fiddlehead Marina, B. Dock
Olympia, *Reinhart—Young House*, 1106 E. Olympia Ave.
Olympia, *Rudkin, Frank House*, 1005 E. Olympia Ave.

[FR Doc. 87–9026 Filed 4–21–87; 8:45 am]
BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–256]

Certain Cryogenic Ultramicrotome Apparatus and Components Thereof; Commission Decision Not To Review an Initial Determination Suspending the Investigation

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination granting complainant's motion for suspension of the investigation.

SUMMARY: The Commission has determined not to review an initial determination (ID) of the presiding administrative law judge (ALJ) granting complainant's motion to suspend the above-captioned investigation during the pendency of a patent reexamination proceeding in the United States Patent and Trademark Office (PTO).

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of the General Counsel, United States International Trade Commission, telephone 202–523–0375.

SUPPLEMENTARY INFORMATION: On January 22, 1987, complainant Research and Manufacturing Co., Inc. filed a motion (Motion No. 256–10) to suspend the investigation during the pendency of a proceeding before the PTO to reexamine complainant's U.S. Letters Patent No. 3,660,420, the patent at issue in the investigation. Complainant filed a request for reexamination with the PTO on January 28, 1987. Respondents opposed the motion to suspend and the Commission investigative attorney supported it. On March 12, 1987, the presiding ALJ granted complainant's motion in an ID (Order No. 14) suspending the investigation pending the conclusion of reexamination proceedings in the PTO. No petitions for review or comments from Government agencies have been received. Authority for the Commission's action is contained in 19 U.S.C. 1337(b)(1) and 19 CFR 210.53–210.59.

Copies of the ID and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: April 15, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–9017 Filed 4–21–87; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337–TA–242]

Certain Dynamic Random Access Memories, Components Thereof, and Products Containing Same; Commission Decision to Review and Remand Initial Determination to the Administrative Law Judge

AGENCY: International Trade Commission.

ACTION: Review and remand of initial determination.

SUMMARY: The Commission has determined to review and remand to the presiding administrative law judge (ALJ) an initial determination (ID) terminating the above-captioned investigation as to respondents NEC Corporation and NEC Electronics Inc. (collectively referred to as NEC).

FOR FURTHER INFORMATION CONTACT: Marcia H. Sundeen, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0480.

SUPPLEMENTARY INFORMATION: On March 12, 1986, the Commission instituted this investigation to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 U.S.C. 1337a in the unlawful importation into and sale in the United States of certain dynamic random access memories (DRAMs) by reason of alleged infringement of ten U.S. patents owned by complainant Texas Instruments Incorporated (TI). TI alleged that DRAMs imported and sold by NEC infringed certain claims of U.S. Letters Patent 4,533,500 (the '500 patent) and U.S. Letters Patent 4,533,843 (the '843 patent) owned by TI.

On January 6, 1987, respondent NEC filed a motion (Motion No. 242–391) pursuant to Commission rule 210.51(a), requesting termination of the investigation as to NEC. NEC argued that it should be terminated from the investigation because it is impliedly licensed under the '500 and '843 patents. On March 18, 1987, the presiding ALJ issued an ID granting NEC's motion for termination on the basis that NEC is impliedly licensed under the '500 and '843 patents. Complaints TI and the

Commission investigative attorneys filed petitions for review of the ID. Respondents NEC, Hitachi, Ltd. and Hitachi America, Ltd. filed replied to the petitions. No government agency comments were received.

Copies of the nonconfidential version of the ALJ's ID, the Commission's Action and Order, and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–523–0002.

Issued: April 17, 1987.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–9018 Filed 4–21–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. TA–203–17]

Heavyweight Motorcycles; Import Investigation

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 203(i)(2) of the Trade Act of 1974 (19 U.S.C. 2253(i)(2)) and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: Following receipt of a request filed on April 9, 1987, by the United States Trade Representative under authority delegated by section 5(a) of Executive Order 11846, the United States International Trade Commission instituted investigation No. TA–203–17 under section 203(i)(2) of the Trade Act of 1974 for the purpose of gathering information in order that it might advise the President of its judgment as to the probable economic effect on the domestic industry concerned of the termination of import relief presently in effect with respect to motorcycles having engines with total piston displacement over 700 cubic centimeters, provided for in item 692.52 of the Tariff Schedules of the United States (TSUS). Such relief is provided for in Presidential Proclamation 5050 of April 15, 1983 (48 FR 16639) and is set forth in item 924.20 of the appendix to the TSUS. The relief is scheduled to terminate on April 16, 1988.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 206, Subparts A and D (19 CFR Part 206), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: April 15, 1987

FOR FURTHER INFORMATION CONTACT: George L. Deyman (202–523–0481), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–523–0161.

SUPPLEMENTARY INFORMATION:

Participation in the Investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than 21 days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on May 21, 1987 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on May 13, 1987. All persons desiring to appear at the hearing and make oral presentations, with the exception of public officials and persons not represented by counsel, should file prehearing briefs by May 14, 1987 and attend a prehearing conference to be held at 9:30 a.m. on May 15, 1987 in room 117 of the U.S. International Trade Commission Building. Posthearing briefs must be submitted not later than the close of business on May 27, 1987. Confidential material should be filed in accordance with the procedures described below.

Parties are encouraged to limit their testimony at the hearing to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 27, 1987. A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: This investigation is being conducted under the authority of section 203 of the Trade Act of 1974. This notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

Issued: April 16, 1987

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-9020 Filed 4-21-87; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Lodging of a Stipulation of Dismissal Pursuant to the Clean Water Act; Pottstown, PA

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on April 3, 1987 a proposed Consent Decree in *United States, et al. v. Borough of Pottstown* Civil Action No. 84-6280, was lodged with the United States District Court for the Eastern District of Pennsylvania. The proposed Consent Decree concerns the failure of the Borough of Pottstown to implement an approvable pretreatment program at the Pottstown Waste Water Treatment Plant prior to July 1, 1983. The proposed Consent Decree requires the defendant to pay a penalty of $25,000.00. Its pretreatment program has been approved since the filing of this complaint.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States, et al. v. Borough of Pottstown*, D.J. Ref. # 90-5-1-1-2487

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, 601 Market Street, Philadelphia, Pennsylvania, and at the Region III Office of the United States Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

FR Doc. 87-8998 Filed 4-21-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Air Act; Shenango Inc.

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on April 9, 1987, a proposed Amended Consent Decree in *United States v. Shenango Incorporated*, C.A. 80-1172, was lodged with the United States District Court for the Western District of Pennsylvania. The Motion for Civil Contempt and to Enforce Judgment filed by United States alleged violations of a Consent Decree entered on October 16, 1980, and of the Clean Air Act by Shenango due to its failure to comply with the capacity and mass emission standards for particulates set forth in the 1980 Consent Decree at its Neville Island, Pennsylvania facility.

The Amended Consent Decree requires Shenango to achieve and demonstrate compliance with the Clean Air Act emission standards at the Neville Island facility and to pay a civil penalty of $500,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Amended Consent Decree. Comments shall be addressed to the Assistant Attorney General of the Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States v. Shenango Incorporated*, DOJ ref. 90-2-3-1099.

The proposed Amended Consent Decree may be examined at the office of the United States Attorney, J. Alan Johnson, 633 U.S. Post Office and Courthouse, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania 15219 and at the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania, 19107 Copies of the Amended Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the U.S. Department of Justice, Room 1517 Ninth Street and Pennsylvania Ave., NW., Washington, DC 20530. A copy of the proposed Amended Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $8.60 (10 cent a page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-8999 Filed 4-21-87; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

United States of America v. National Medical Enterprises, Inc., and NME Hospitals, Inc., Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed consent decree and competitive impact statement have been filed with the United States District Court for the Eastern District of California, Fresno Division, in *United States v. National Medical Enterprises, Inc. and NME Hospitals, Inc.*, Civil Action No. CV-F-83-481.

The amended compliant filed by the Department of Justice in this case alleged that the acquisition by National Medical Enterprises, Inc. ("NME") of Modesto City Hospital of Medesto, California, violated section 7 of the Clayton Act, 15 U.S.C. 18, because it may substantially lessen competition in the provision of general acute care hospital services in the Modesto, California, area. In addition to NME, the amended complaint names as a defendant NME Hospitals, Inc., a wholly-owned subsidiary of NME. The proposed final judgment would prohibit NME and NME Hospitals, Inc., for a ten-day period after entry of the decree, from acquiring any general acute care hospital in the Modesto area market without prior approval from the Department of Justice or the Court.

Public comment on the proposed judgment is invited for a period of 60 days from the date of this notice. Comments should be addressed to John W. Clark, Chief, Professionals and Intellectual Property Section, Antitrust Division, United State Department of Justice, Room 9903, 555 4th Street, NW., Washington, DC 20001. All comments

will be filed with the Court and published in the **Federal Register.**

Joseph H. Widmar,

Director of Operations, Antitrust Division.

John F Greaney,

Steven B. Kramer,

U.S. Department of Justice, 555 4th Street, NW., Washington, DC 20001, Telephone: (202) 724-7425.

United States District Court for the Eastern District of California, Fresno Division

[Civil No. CV-F-83-481-REC]

United States of America, Plaintiff, v. *National Medical Enterprises, Inc., and NME Hospitals, Inc.,* Defendants; *Stipulation and Order Regarding Proposed Final Judgment.*

Filed: April 8, 1987.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has now withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgement by serving notice thereof on defendants and by filing the notice with the Court;

(2) The parties shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment;

(3) In the event the plaintiff withdraws its consent, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding; and

(4) The parties agree that each will bear its own costs and attorneys fees that have been incurred in connection with this case and shall not seek any assessment of those costs or fees against the opposing party.

For Plaintiff United States of America:

Charles F. Rule,

Acting Assistant Attorney General.

Roger B. Andewelt,

John W. Clark,

Fred E. Haynes,

Attorneys, U.S. Department of Justice.

For Defendants National Medical Enterprises, Inc., and NME Hospitals, Inc.,

Robert Fabrikant, *Esquire,*

Richard A. Feinstein, *Esquire,*

McKenna, Conner & Cuneo, 1575 I Street, NW, Washington, DC 20005.

John F. Greaney,

Steven B. Kramer,

Attorneys, United States Department of Justice, Washington, DC 20001 (202) 724-7425.

Order

It is so Ordered this ——— day of ———, 1987

Robert E. Coyle,

United States District Judge.

John F Greaney,

Steven B. Kramer,

U.S. Department of Justice, 555 4th Street, NW., Washington, DC 20001, Telephone: (202) 724-7425.

United States District Court for the Eastern District of California, Fresno Division

[Civil No. CV-F-83-481 REC]

United States of America, Plaintiff, v. *National Medical Enterprises, Inc., and NME Hospitals, Inc.,* Defendants; *Final Judgment.*

Filed: April 8, 1987.

Whereas, plaintiff, United States of America, having filed its Amended Complaint herein on February 21, 1984, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against, an admission by, or an estoppel against any party with respect to any such issue;

And Whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

Now, Therefore, without adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Amended Complaint states a claim upon which relief may be granted against defendants under section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II

As used in this Final Judgment:

A. "General acute care hospital" means any hospital facility with an organized medical staff which provides 24-hour acute inpatient care, including basic services (*e.g.*, medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy and dietary), secondary services (*e.g.*, obstetrics and pediatrics), or tertiary services (*e.g.*, certain kinds of cancer and cardiac care).

B. "Modesto area market" means all of Stanislaus County (including the City of Modesto), California, except for the communities of Turlock and Denair, and also includes the communities of Ripon and Escalon in southern San Joaquin County, California.

C. "NME" means defendant National Medical Enterprises, Inc., each division, subsidiary, or affiliate thereof (including defendant NME Hospitals, Inc.); and each officer, director, employee, attorney, agent, or other person acting for or on behalf of NME.

D. "Person" means any natural person, corporation, association, firm, partnership, or other business or legal entity.

III

A. The provisions of this Final Judgment shall apply to NME, its successors or assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. NME shall require as a condition of the sale or other disposition of Doctors Medical Center in Modesto, California that the acquiring party agree to be bound by the provisions of this Final Judgment.

C. In the event that NME sells a division, subsidiary, or affiliate and that division, subsidiary, or affiliate does not own, operate, control, lease, or manage, directly or indirectly, any general acute care hospital in the Modesto area market, then said division, subsidiary, or affiliate shall, once sold, no longer be bound by this decree, and the entity purchasing said division, subsidiary, or affiliate shall not be bound by this decree simply as a result of said purchase.

IV

NME is hereby enjoined and restrained for a period of ten (10) years from the entry of this Final Judgment

from, directly or indirectly, purchasing, consolidating with, acquiring control of, entering into a management contract with, or leasing any general acute care hospital located in the Modesto area market without the prior written consent of plaintiff, or if plaintiff objects, the approval of the Court upon NME's establishing, by a preponderance of the evidence, that the proposed transaction will not substantially lessen competition or tend to create a monopoly in any line of commerce in any section of the country. In the event that NME shall seek the approval of the Court for a proposed transaction, plaintiff shall, if requested by NME and if plaintiff in the exercise of its discretion considers the request to be reasonable, join with NME in expediting any and all proceedings by the Court in connection therewith.

V

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to NME made to its principal office, be permitted:

(1) Access during office hours of NME to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of NME, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of NME and without restraint of interference from it, to interview officers, employees and agents of NME, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge in the Antitrust Division, made to NME's principal office, NME shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this Section V shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VI

Jurisdication is retained by this Court for the purpose of enabling any of the parties of this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, implementation, or modification of any of the provisions of this Final Judgment, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

VII

This Final Judgment will expire on the tenth anniversary of the date of its entry by the Court.

VIII

Entry of this Final Judgment is in the public interest.

United States District Judge.

Dated:

John F. Greaney,
Steven B. Kramer,
U.S. Department of Justice, 555 4th Street, N.W., Washington, D.C. 20001, Telephone: (202) 724-8310.

United States District Court for the Eastern District of California Fresno Division

[Civil No. CV-F-83-481 REC]

United States of America, Plaintiff, v. *National Medical Enterprises, Inc., and NME Hospitals, Inc.,* Defendants, *Competitive Impact Statement.*

Filed: April 8, 1987.

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(b)-(h), files this Competitive Impact Statement relative to the proposed final judgment submitted for entry in this antitrust proceeding.

I. Nature and Purpose of the Proceeding

On October 31, 1983, the United States filed a civil antitrust complaint under Section 15 of the Clayton Act, 15 U.S.C. 25, challenging the December 30, 1982 acquisition of Modesto City Hospital by National Medical Enterprises, Inc. ("NME"), through its subsidiary, NME Hospitals, Inc., as a violation of section 7 of the Clayton Act, 15 U.S.C. 18. The complaint (which was later amended) charged that the effect of the acquisition may be substantially to lessen competition among providers of general acute care hospital services in the Modesto area market. The amended complaint sought defendants' divestiture of Modesto City Hospital and an injunction against any future acquisitions by defendants without prior notice to the government or approval by the Court.

The government and the defendants have stipulated that the proposed final judgment may be entered after compliance with the APPA. Entry of the proposed final judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify and enforce the proposed final judgment and to punish violations of it.

II. Background Events

On December 30, 1982, NME, through its subsidiary, NME Hospitals, Inc., acquired the assets of Modesto City Hospital, of Modesto, California, from Modesto City Hospital, Inc., for approximately $8 million in cash. At the time of the acquisition, NME also owned Doctors Medical Center, the largest hospital in Modesto. Before the acquisition, Doctors Medical Center directly competed with Modesto City Hospital in the provision of general acute care hospital services in the Modesto area market,[1] an area which includes Modesto and most of Stanislaus County, California (except the communities of Turlock and Denair), as well as the communities of Ripon and Escalon in southern San Joaquin County, California. This is the geographic area from which the hospitals attract the vast majority of their patients.

General acute care hospitals provide a broad range of integrated and interrelated health care services, unduplicated by any other health care provider. General acute care hospital services include most complex surgical and diagnostic procedures and many medical procedures requiring general anesthesia or continuous monitoring of a patient's condition. In many cases, these services can be safely, conveniently, and economically performed only in a hospital setting. These and other unique characteristics distinguish general acute care hospital services from services provided by other health care providers such as clinics, freestanding ambulatory surgery centers, and doctor's offices.

Prior to the defendants' acquisition of Modesto City Hospital, the Modesto area market for the provision of general

[1] Defendants have since announced plans to consolidate Modesto City Hospital with Doctors Medical Center. Under the consolidation, which is in progress, most of Modesto City Hospital's general acute care services will be transferred to Doctor's Medical Center and Modesto City Hospital will be converted to alternative uses (including ambulatory care, geriatric medicine, and an expansion of its adolescent chemical dependency unit).

acute care hospital services was highly concentrated. NME's Doctors Medical Center controlled approximately 34 percent of the licensed general acute care hospital beds, and Modesto City Hospital had approximately 14 percent of the licensed hospital beds. The remaining beds were divided among four other hospital competitors.

As a result of the December 30, 1982 acquisition of Modesto City Hospital by NME, Doctors Medical Center and Modesto City Hospital are under the common control of NME, and NME controls about half of the hospital beds in the Modesto area market. The Herfindahl-Hirschman Index (a measure of market concentration calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers) rose at least 900 points, from 2376 to at least 3336, a strong indication that the market became even more highly concentrated as a consequence of the acquisition.[8]

Based upon these and other facts, the amended complaint alleges that the effect of the defendants' acquisition of Modesto City Hospital may be substantially to lessen competition in the provision of general acute care hospital services in the Modesto area market in violation of section 7 of the Clayton Act.

The defendants have consented the government's case. They have argued that the relevant product market not only includes general acute care hospital services, but also services provided by other health care providers, such as doctors' offices and ambulatory surgery centers. They have also argued that the relevant geographic market for the provision of these services extends as far north as Stockton and as far south as Merced, California. In the defendants' view, the relevant market was unconcentrated before their acquisition of Modesto City Hospital, and the acquisition only nominally increased market concentration.

Trial of the case commended on July 9, 1985. On July 18, 1985, during the presentation of the government's evidence, the presiding judge announced his intention to dismiss the case with prejudice because of misconduct by government attorneys. The dismissal order was entered on July 24, 1985. *United States* v. *National medical Enterprises, Inc.*, 107 F.R.D. 628 (E.D. Cal. 1985). The government appealed, and on June 23, 1986, the Ninth Circuit vacated the dismissal of the action so that the district court judge could reconsider the motion to dismiss pursuant to certain standards set out in the opinion. *Id.*, 792 F.2d 906, 914 (9th Cir. 1986). The Ninth Circuit's opinion was amended on September 9, 1986, and in late 1986 the case was returned to the district court for further proceedings.

III. Explanation of the Proposed Final Judgment

The government and the defendants have stipulated that the proposed final judgment may be entered by the Court at any time after compliance with the APPA. The proposed final judgment does not constitute an admission by any party as to any issue of fact or law. Under the provisions of section 2(e) of the APPA, entry of the proposed final judgment is conditioned upon a determination by the Court that it is in the public interest to do so.

The proposed final judgment enjoins the defendants, for a ten-year period after entry of the judgment, from acquiring any general acute care hospital in the Modesto area market without the prior approval of the Department of Justice or the Court. Acquisitions having a significant adverse effect on competition in this market can involve dollar amounts that do not require reporting under the premerger reporting program created by section 7A of the Clayton Act, 15 U.S.C. 18(a). The proposed final judgment eliminates the possibility that defendants could make such acquisitions without notice to the government for the next ten years. Should the defendants seek Court approval of such an acquisition, they must affirmatively demonstrate to the Court that the acquisition would not substantially lessen competition in any line of commerce in any section of the country.

The proposed judgment also requires the defendants to produce to the Department upon request certain information concerning their compliance with the judgment.

IV Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney fees. Entry of the final judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the final judgment has no *prima facie* effect in any private lawsuit that may be brought against the defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

As provided by the APPA, any person wishing to comment upon the final judgment may within the statutory 60-day comment period submit written comments to John W. Clark, Chief, Professions & Intellectual Property Section, Antitrust Division, United States Department of Justice, 555 4th Street, NW., Room 9903, Washington, DC 20001. These comments and the Department's responses will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department, which remains free to withdraw its consent to the judgment at any time prior to entry. The judgment provides that the Court retains jurisdiction over this action and that any party may apply to the Court for any order necessary or appropriate for its modification, interpretation or enforcement.

VI. Alternatives to the Proposed Final Judgment

The government considered requiring the divestiture of an NME-owned hospital but was unable to achieve that result in negotiations, and it became apparent that divestiture could be accomplished only after as successful completion of the litigation.

Given the current posture of the case, it would not be possible to reach the merits of the government's case until the defendants' motion to dismiss for prosecutorial misconduct is resolved. This could involve protracted litigation, which would be costly and time consuming. Furthermore, once the motion to dismiss is resolved, resumption of the trial on the merits, together with possible appeals, would also require the expenditure of significant time and resouces in the face of substantial uncertainty that the government ultimately would succeed. The government had presented much of its case at the time the defendants made their motion to dismiss, and the course of the trial causes the government to be less confident of its ability to prevail on the merits than it was before the trial began. Even if the government were ultimately to prevail on the merits, there would be problems associated with obtaining adequate relief: as noted earlier, NME currently is in the process

[8] As the amended complaint makes clear, the market shares of the hospitals can also be measured by annual inpatient days and by gross patient revenues. Under either measure, the post-merger HHI is in excess of 3800, and the change in the HHI exceeds 1100 points.

of consolidating Modesto City Hospital with Doctors Medical Center, which when complete will make it less certain that two viable independently competing hospitals could be recreated. Therefore, we concluded that the proposed Final Judgment was the best alternative available to the government at the current time and that its entry is in the public interest.

VII. Determinative Materials and Documents

There are no materials or documents that the government considered determinative in formulating the proposed final judgment. Accordingly, none are being filed with this Competitive Impact Statement.

Dated:

Respectively submitted,

John F. Greaney,

Steven B. Kramer,

Attorneys, United States Department of Justice, Antitrust Division.

[FR Doc. 87-9022 Filed 4-21-87; 8:45 am]

BILLING CODE 4410-01-M

Immigration and Naturalization Service

[Public Notice INS #1004-87]

Anti-Drug Abuse Act of 1986; Pilot Project

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of pilot project.

SUMMARY: Section 1751 of the Anti-Drug Abuse Act of 1986 amended certain provisions of the Immigration and Nationality Act, in order to provide greater enforcement authority to the Immigration and Nationalization Service (INS) as one of the federal agencies engaged in the fight against illegal narcotics trafficking. It also called for establishment of a four-city pilot project between the INS and local law enforcement agencies, to enhance automated information exchanges and operational support in locating and apprehending alien narcotics traffickers and drug offenders. This notice provides the public with information relating to that pilot project.

FOR FURTHER INFORMATION CONTACT: Walter D. Cadman, Acting Deputy Assistant Commissioner, Investigations Division, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-2997

SUPPLEMENTARY INFORMATION: On October 27 1986 the President signed into law the Anti-Drug Abuse Act of 1986, Pub. L. 99-570. Subtitle M (section 1751) of that omnibus drug control Act, entitled the Narcotics Traffickers Deportation Act, amended sections 212(a)(23), 241(a)(11) and 287 of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(a)(23), 1251(a)(11) and 1357 as follows:

—Section 212(a)(23) was amended to render excludable any alien convicted of a violation involving controlled substances, as defined in 21 U.S.C. 802.

—Section 241(a)(11) was amended to render deportable any alien convicted of a violation involving controlled substances, also as defined in 21 U.S.C. 802.

Section 287 was amended by addition of new subsection (d) to require that when the Immigration and Naturalization Service (INS) is expeditiously informed that an alien has been arrested for a violation of any law relating to controlled substances, the Service must promptly determine whether or not to issue a detainer.

Lastly, Subtitle M also provides for a one-year pilot project in four cities to be designated by the Attorney General, designed for enhanced automated exchange of information between INS and state and local agencies; and calls for increases in INS Investigations personnel. The statute states, in pertinent part,

"[The] Attorney General, acting through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens . At the end of the first year of the pilot program, the Attorney General shall provide for an evaluation of the effectiveness of the program and shall report to Congress on such evaluation and on whether the pilot program should be extended or expanded."

Notice is hereby given that, in accordance with the specifications laid out in the statutory language, the Commissioner of Immigration and Naturalization has determined that the pilot project mandated by law shall be carried out in the following four cities: New York, New York; Chicago, Illinois; Miami, Florida; and Los Angeles, California.

Dated: April 15, 1987

Alan C. Nelson,

Commissioner, Immigration and Naturalization.

[FR Doc. 87-9001 Filed 4-21-87; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87-36]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F 83's, supporting statements, instructions, transmittals letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by May 4, 1987 If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Ray S. Mayfield, NASA Agency Clearance Officer, Code NM, NASA Headquarters, Washington, DC 20546; Bruce McConnell, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 453-1090.

Reports

Title: Establishment of Merits of Continuing Research Projects.

OMB Number: 2700-0045.

Type of Request: Revision.

Frequency of Report: Annually.

Type of Respondent: Non-profit institutions.

Annual Responses: 1,529.

Annual Burden Hours: 30,580.

Abstract-Need/Uses: The continued applicability of sponsored researched to NASA's needs and the intrinsic merit of project effort is verified by requiring updated technical proposals for review and evaluation prior to re-authorizing on-going work.

Title: Property Management and Control.
OMB Number: 2700–0047
Type of Request: Revision.
Frequency of Report: Annually.
Type of Respondent: Non-profit institutions.
Annual Responses:57,675.

Abstract-Need/Uses: Property records and reporting are required to ensure appropriate utilization, safekeeping, accountability and control for items provided by NASA or acquired with NASA-provided funds.

Title: Patents.
OMB Number: 2700–0048.
Type of Request: Revision.
Frequency of Report: Annually.
Annual Recordkeeping Hours: 27,684.

Abstract-Need/Uses: Reports and records regarding patents are required to comply with statutes and the OMB and NASA implementing regulations.

Title: Financial Monitoring and Control.
OMB Number: 2700–0049.
Type of Request: Revision.
Frequency of Report: Monthly.
Annual Recordkeeping Hours: 92,280.

Abstract-Need/Uses: Financial recordkeeping and reporting are required to ensure proper accountability for and use of NASA-provided funds.

Ray S. Mayfield,
Director, Management Analysis Office.
April 16, 1987.

[FR Doc. 87–8976 Filed 4–21–87; 8:45 am]
BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Fellowships Section) to the National Council on the Arts will be held on May 6–8, 1987, from 9:00 a.m.—6:00 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on Friday, May 8, from 11:00 a.m.–1:00 p.m. The topics for discussion will include guidelines revisions, policy issues and the Five-Year Planning Document.

The remaining sessions of this meeting on May 6–7 from 9:00 a.m.–6:00 p.m. and on May 8, from 9:00–11:00 a.m. and from 2:00 p.m.–6:00 p.m. are for the purpose of application review. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.
April 15, 1987.

[FR Doc. 87–8995 Filed 4–21–87; 8:45 am]
BILLING CODE 7537–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Painting Fellowships Section) to the National Council on the Arts will be held on May 11–14, 1987 from 9:00 a.m.–8:00 p.m., and on May 15, 1987 from 9:00 a.m.–6:00 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,
Director, Council and Panel Operations, National Endowment for the Arts.
April 15, 1987.

[FR Doc. 87–8996 Filed 4–21–87; 8:45 am]
BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Severe Accidents; Postponement

The ACRS Subcommittee on Severe Accidents scheduled for April 23, 1987 has been postponed to May 28, 1987 Notice of this meeting was previously published Friday, April 3, 1987 (52 FR 10835).

Dated: April 16, 1987.
Morton W. Libarkin,
Assistant Executive Director for Project Review.

[FR Doc. 87–9087 Filed 4–21–87; 8:45 am]
BILLING CODE 7590–01–M

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on April 8, 1987 (52 FR 11352) through April 10, 1987

Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously

evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 5, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Project Director)*: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i) through (v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arkansas Power and Light Co., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, AR

Date of amendment request: December 12, 1986.

Description of amendment request: The amendment request identifies five proposed changes in the Arkansas Nuclear One, Unit 1, Technical Specifications as follows:

1. Change Table 4.1-3 at Item 1.c to delete the reference to footnote (11) and to delete the footnote itself. The item and the footnote relate to a requirement applicable from date of license through Cycle 2 only and therefore are no longer applicable.

2. Change Table 4.1-3 to delete Item 7 and associated footnote; change Specification 3.3.1 to replace paragraph *(G) with paragraph (G) as noted in this specification and delete the associated footnote; and change Specification 3.3.4 to replace paragraphs *(B) and *(C) as noted in this specification and delete the associated footnote. The changes relate to the requirements associated with the sodium thiosulfate system which was removed from service as authorized by a previous amendment to the license.

3. Change Figure 6.2-1, Management Organization Chart, and Figure 6.2-2, Functional Organization for Plant Operations, to reflect a reorganization of certain positions within the generation, transmission and engineering operations of Arkansas Power and Light Company.

4. Change Specification 3.8:2 to correct a misspelled word; add page numbers to pages 60, 61 and 66c which apparently were missing as a result of the licensee's duplication process; correct a misspelled word in Specification 4.4.1.1.2.a; correct designation "NRC" for "AEC" in Specification 4.4.1.1.2.d; change "integrated rate tests" to "integrated leak rate tests" in Specification 4.4.1.1.4; correct misspelled words in Specifications 4:4.1.2.1.a and 4.4.1.2.1.f; change Specification 4.8 to correct the title to read "Emergency Feedwater Pump Testing"; correct a misspelled word in the Bases of Specification 4.9; add appropriately "4.21 Sprinkler Systems" which apparently was removed in the licensee's duplication of the page 110t; correct a misspelled word in the Bases of Specification 4.26; correct the title in the Index of "Surveillance Standards" to read "Surveillance Requirements"; and correct a misspelled word in the Bases of Specification 2.

5. Change Specification 6.5.2.2 to allow the Safety Review Committee (SRC) to be composed of at least eight members in addition to the chairman. Changes identified above that are requested to correct errors which occurred only in the licensee's duplication process are not being considered by the Commission. The official Commission record is correct and therefore no changes are necessary.

Basis for proposed no significant hazards consideration determination: The Commission's staff has reviewed the licensee's no significant hazards consideration determinations and agrees with the licensee's analyses. All of the proposed changes are to remove ambiguities, remove outdated requirements, correct misspelled words, provide consistency within the Technical Specifications or to provide for administrative and organizational changes.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples in 51 FR 7750. An example of actions involving no significant hazards considerations is Example (i), an amendment involving a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The proposed Technical Specification modifications correct typographical errors, provide consistency within the Technical Specifications and provide for administrative changes. The proposed changes fall within this example. Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards considerations exist, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Suite 700, Washington, DC 20036.

NRC Project Director: John F Stolz.

Carolina Power and Light Co., Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, SC

Date of amendment request: March 9, 1987

Description of amendment request: The proposed amendment would revise Technical Specification (TS). Section 6.0, Administrative Controls, for the H.B. Robinson Steam Electric Plant, Unit No. 2, to reflect organization changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Carolina Power and Light Company has reviewed their proposed change in accordance with 10 CFR 50.92(c) and has determined that the proposed change does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the amendment changes the organizational structure to reflect organizational changes due to promotions and reorganization without any reduction in the level of management oversight of activities affecting plant safety. Furthermore, the redundant addition of a requirement for PNSC review to Section 6.5.1.6.6 provides further assurance that such reviews will be appropriately carried out.

(2) Create the possibility of a new or different kind of accident than previously evaluated because there are no physical plant modifications or changes involved.

(3) Involve a significant reduction in a margin of safety because organizational control and accountability are enhanced by these changes.

The NPC staff has reviewed the licensee's determination and agrees with their evaluation in this regard and, therefore, proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Lester S. Rubenstein.

Commonwealth Edison Co., Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, IL

Date of application for amendments: March 5, 1987

Description of amendments request: The amendments would revise the Technical Specifications to require that the High Energy Line Break isolation sensors be operable.

Basis for proposed no significant hazards consideration determination: The staff has evaluated these proposed amendments and determined that they involve no significant hazards considerations. 10 CFR 50.92(c) states that a proposed amendment will involve no significant hazards considerations if the proposed amendments do not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

This amendment requests the addition of a new Technical Specification requiring high energy line break isolation sensors to be operable. These sensors automatically detect and isolate high energy line breaks in the Steam Generator Blowdown and Auxiliary Steam systems before auxiliary building environmental conditions exceed predicted values.

The proposed change does not involve a significant hazards consideration because operation of Byron Units 1 and 2 in accordance with this change would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. Requiring high energy line break isolation sensors to be operable does not affect the probability of an accident occurring. The consequences of an accident may actually be decreased. The sensors are designed to detect an increase in temperature due to a high energy line break and initiate a signal to close valves to isolate the source of high energy. This ensures that operation of equipment is not impacted by an adverse environment. Therefore, when equipment is required to be operable to respond to an accident condition, there is a greater probability it will be available.

2. Create the possibility of a new or different kind of accident from any previously analyzed. The additional requirements imposed by the new Technical Specifications are designed to limit the potential consequences if an accident occurs. A new or different kind of accident is not created as a result.

3. Involve a significant reduction in the margin of safety. The addition of a new Technical Specification does not delete the requirements for operability of any other Technical Specification. Requiring high energy line break sensors to be operable prevents the potential for damage to safety-related systems and structures in the auxiliary building. This will not reduce the margin of safety.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing examples in 48 FR 7751 of amendments that are considered not likely to involve a significant hazards consideration. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specification; for example, a more stringent surveillance requirement. In this case, the proposed change is similar to Example (ii) since the change is providing additional limitations, restrictions, and controls not presently included in the Technical Specifications. The proposed amendment requires high energy line break isolation sensors to be operable. Currently the Technical Specifications do not have any requirements for high energy line break isolation sensors.

Therefore, based on the above considerations, the staff has determined that this change does not involve significant hazards consideration.

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

Attorney to licensee: Michael Miller, Isham, Lincoln and Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

NRC Project Director: Steven A. Varga.

Commonwealth Edison Co., Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Lake County, IL

Date of application for amendments: December 4, 1986, supplemented March 3, 1987

Description of amendments request: This proposed amendment clarifies Sections 3.5 and 4.5-Reactor Containment Fan Coolers following a recent modification to the reactor containment fan coolers (RCFC) and converts the entire section into the Standardized Technical Specification format.

In 1984, the heat exchangers for Zion's 10 RCFC's were exhibiting degradation of the service water cooling coil tubing. This tubing had degraded to the extent that through-wall holes had developed and leakage had occurred. The RCFSs design function is to remove heat from the containment atmosphere and transfer it to the service water system under both normal and accident conditions. The plugging of leaking coil tubes was compromising this function. Therefore, a modification was planned to replace the existing RCFC service water cooling coils with new coils of a design that would minimize the degradation phenomenon.

This replacement activity also was intended to upgrade the heat removal capability of the RCFC's by increasing both the heat transfer capabilities of the coil and the air flow rate. Associated with this effort was a goal to simplify the operation of the RCFC's. The simplification of the RCFC by the elimination of the "normal" air path would result in increased reliability.

The need for the two existing modes of operation, normal and accident, was reviewed as part of this effort. The results of this review demonstrated that the FSAR did not take any credit for any effects of containment cleanup from the existing moisture separators and HEPA filters. Thus, the existence of two separate air flow paths, and the resultant need to actuate the accident mode, was superfluous.

The resulting RCFC modification had the following elements:

—Replacement of the RCFC heat exchanger
—Removal of the moisture separators
—Removal of the HEPA filters
—Air control dampers permanently placed in the accident mode

Technical Specification 4.5.1.A.3 states: "Each fan cooler damper shall be stroked to the accident position and the position indication checked during each refueling outage." In addition, the basis for this section states; "The testing program is adequate to ensure continued availability of each of the fan coolers. It will further provide assurance of the continued operability of those fan cooler components used only during an accident situation."

Thus, the intent of the RCFC refueling surveillance is to ensure that the accident air flow path is available. A simple verification that the dampers remain in the accident position satisfies the surveillance requirements. Therefore, the placement of the control dampers in the accident position does not preclude the performance of the surveillance requirements of Section 4.5. This proposed amendment also alters the format of Sections 3.5 and 4.5 to the

Standardized Technical Specification format.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will involve a no significant hazards consideration if the proposed amendment does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

In addition, the Commission has provided guidance in the practical application of these criteria by publishing eight examples in 51 FR 7751. The licensee provided the following discussion regarding the above three criteria:

Criterion 1

The proposed change, and the underlying modifications, have no effect on the operation of Zion's RCFCs. The physical modification has not affected the availability of the accident air flow path during accident conditions. Rather, the physical modification has resulted in the accident flow path being continuously available and increased heat removal capacity. Thus, the RCFCs are always available to perform their safety function.

Chapter 14 of the Zion FSAR assumes that three RCFCs are operating in the post-LOCA containment environment to remove energy from the containment atmosphere. The ability of Zion's RCFCs to perform this function has been increased as a result of this physical modification. The heat removal capability has been increased and the need to automatically transfer from the normal to the accident air flow path has been eliminated. Thus, the RCFCs ability to perform their designed function has not degraded.

The modification of the verb "stroke" to the verb "verify" merely clarifies the intent of the existing surveillance to ensure that the accident flow path is continuously available. The existing Technical Specification surveillance requires that the dampers be stroked and verified in their accident positions every refueling. There is no requirement to stroke the dampers back to the normal flow path position. Thus, the modification of the verb "stroke" to the verb "verify" merely formalizes the preexisting intent of the Zion Technical Specifications.

Based upon the above discussion, the proposed amendments do not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2

The clarification of the existing intent of the Zion Technical Specifications and the alteration of the format of Section 3.5 and 4.5 has no effect on any of Zion's systems or structures. As discussed above, the RCFCs heat removal capability and reliability has been increased. These improvements do not result in any additional system interactions. Thus, there can be no potential for any previously unanalyzed malfunction or component failure.

The RCFCs are intended to remove energy from inside of the containment structure following a main steam line break or a loss of coolant accident. The analyses for these accidents contained in Zion's FSAR have been reviewed. Based upon the lack of system interaction discussed above, the underlying physical modification, will not affect any of the pre-existing accident sequences.

Thus, this proposed amendment does not create the possibility of a new or different kind of accident from those previously evaluated.

Criterion 3

The RCFCs will remain continuously available to perform their intended safety function. The physical modifications to the RCFCs have resulted in more efficient and reliable operation. Thus, the margin of safety has been increased as a result of the physical RCFC modification.

However, the proposed amendment only involves the clarification and reformatting of the Zion Technical Specifications which does not affect the safety function of the RCFCs. Since the RCFCs ability to remove energy from inside of the Zion containment structure will be unaltered by this administrative clarification, there will be no change in the margin of safety due to the proposed Technical Specification amendment.

This proposed change involves clarifying the existing intent and reformatting of Sections 3.5 and 4.5 of the existing Zion Technical Specifications. Thus, example (i) is applicable in this instance. Example (i) reads as follows:

(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specification, correction of an error, or a change in nomenclature.

Therefore, since the application for amendment satisfies the criteria specified in 10 CFR 50.92 and is similar to examples for which no significant hazards consideration exists, Commonwealth Edison Company has made a determination that the application involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposed to determine that the proposed changes to the Technical Specification involve no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: P Steptoe, Esq., Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Project Director: Steven A. Varga

Consolidated Edison Company of New York, Docket No. 50-247 Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: March 11, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications to include station batteries nos. 23 and 24 under the existing provisions for station batteries nos. 21 and 22. Currently, the Technical Specifications numerically list only batteries nos. 21 and 22. The proposed change will add batteries nos. 23 and 24 wherever batteries nos. 21 and 22 are cited. The actual modification to the Indian Point 2 battery system was reviewed and accepted in NRC Safety Evaluation dated May 2, 1980. The modification eliminated the automatic transfer of loads between the original redundant safety-related batteries 21 and 22 by using additional batteries 23 and 24 as "swing buses." Each D.C. transfer circuit was provided transfer capability between batteries 21 and 22 and batteries 23 or 24. The modification was made to improve the reliability of the dc power system.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (March 6, 1986 51 FR 7751) of amendments that are not likely to involve a significant hazards consideration. The proposed change is enveloped by example (ii) which relates to changes that constitute an additional limitation, restriction or control not presently included in the Technical Specifications. The staff proposes to

determine that the amendment does not involve a signification hazards consideration since it adds restrictions not currently in theTechnical Specifications.

Local Public Document Room location: White Plains Public Library,100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place,New York, New York 10003.

NRC Project Director: Steven A. Varga.

Duke Power Co., Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, NC

Date of amendment request: December 7 1985, as supplemented March 16 and April 2, 1987

Description of amendment request: In 51 FR 22234 dated June 18, 1986, the Commission noted that amendments had been proposed to change the Technical Specifications (TSs) to add some of the changes required by the NRC in its Generic Letter (GL) 85-09, "Technical Specifications for Generic Letter 83-28, Item 4.3." Item 4.3 of GL 83-28, "Required Actions Based on Generic Implication of Salem ATWS Events," established the requirement for automatic actuation of shunt trip attachments on reactor trip breakers. Additional requirements of GL 85-09 regarding items to be addressed by TSs were noted to be outside the scope of 51 FR 22234. The licensee's supplemental requests of March 16 and April 2, 1987 propose to add these additional requirements of GL 85-09 to the TSs.

Specifically, the additional requests would add the reactor trip bypass breaker to TS Table 4.3-1, "Reactor Trip System Instrumentation Surveillance Requirements." The associated table entries for operational test frequencies for the shunt trip and undervoltage trip attachments and applicable modes for which surveillance is required would be added by table notation consistent with GL 85-09. The Bases would be supplemented to address these surveillance requirements.

Basis for proposed no significant hazards consideration determination: The proposed changes to the Technical Specifications are submitted by the licensee in response to GL 85-09. In GL 85-09, the Commission notes its conclusion that:

> Technical Specification changes should be proposed by licensees to explicitly require independent testing of the undervoltage and shunt trip attachments during power operation and independent testing of the control room manual switch contacts during each refueling outage. The Commission also concluded that these tests are necessary to ensure reliable reactor trip breaker operation.

The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards consideration by providing certain examples (51 FR 7744). One of the examples of an amendment likely to involve no significant hazards consideration relates to changes that (ii) constitute additional limitations, restrictions, or controls not presently included in the Technical Specifications. The proposed amendment of the Technical Specifications matches the example because it would impose additional surveillance requirements for the reactor trip breaker undervoltage and shunt trip attachments not presently included in the Technical Specifications.

The above proposed changes would require testing of the undervoltage and shunt trip attachments in accordance with Generic Letter 85-09 for required actions based on generic implications of the Salem ATWS event. Therefore the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

This notice supplements the proposed changes addressed in 51 FR 22234 and does not otherwise alter those previous proposed changes nor the Commission's prior proposed determination of no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC) Station, North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B.J. Youngblood.

Florida Power Corp., et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, FL

Date of amendment request: January 24, 1985, as supplemented February 17 1987

Description of amendment request: The amendment proposed by the licensee would make corrections to the Engineered Safety Features Actuation System (ESFAS) Instrumentation Specifications. The proposed corrections are:

1. Delete Items 5.d. (Tables 3.3-3 and 4.3-2) and 5.a.4 (Table 3.3-4), "Manual Initiation (HPI Isolation)" from "Reactor Building Isolation"

2. Reverse the inequality sign for Item 5.a.5. (Table 3.3-4) "RCS Pressure Low (HPI Isolation)" so that the setpoint must be greater than or equal to 1500 psig.

Basis for proposed no significant hazards consideration determination: The Commission's staff has determined that the proposed changes are administrative in that they correct errors and inconsistencies in the TSs.

With respect to the first item, the diverse containment isolation function or "HPI Isolation" was added to the plant and the Technical Specifications as a part of the NUREG-0578 Short Term Corrective Actions. At that time, the licensee mistakenly included the "Manual Initiation" functional group in the specification. A specific manual initiation circuit for the diverse containment isolation does not exist, therefore, this functional group should be deleted from the Technical Specifications.

The second item is simply a typing error. The inequality sign in item 5.a.5. (Table 3.3-4) "RCS Pressure Low (HPI Isolation)" must indicate a setpoint of greater than or equal to 1500 psig.

The Commission has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (51 FR 7750). One of the examples of actions involving no significant hazards considerations is example (i), a purely administrative change to the technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The licensee has determined, and the Commission's staff agrees, that the changes proposed in this amendment application are administrative, intended to correct errors and thus accurately reflect the actual plant configuration. Therefore, the Commission proposes to determine that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida 32629.

Attorney for licensee: R.W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

NRC Project Director: John F Stolz.

Florida Power Corp., et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating. Plant, Citrus County, FL

Date of amendment request: February 17 1987

Description of amendment request: This submittal would update air lock surveillance Technical Specifications (TSs) to reflect the exemption issued December 9, 1986, for Crystal River Unit

3 regarding the requirements of 10 CFR Part 50, Appendix J, III.D.2(b)(ii). The exemption allows an air lock seal test in place of the air lock pressure test while the reactor is in a shutdown or refueling mode. The amendment would change TS 4.6.1.3 so that the full pressure (Pa) test will continue to be performed at least once per six months; however, prior to ascending to Mode 4, the test will only be conducted if maintenance activities had been performed which could have affected air lock sealing capability.

The amendment would also delete a footnote to TS 4.6.1.3.a reoarding 10 CFR Part 50, Appendix J.

Basis for proposed no significant hazards consideration determination: This change conforms to the latest revision of the Standard Technical Specifications (NUREG-0452). Substituting an air lock seal test for an air lock pressure test while the reactor is in a shutdown or refueling mode will have no significant impact upon plant operation or safety. Tests as described in the TSs will continue to demonstrate containment integrity.

Previous air lock leakage test results have been within limits as specified by TSs. Based on the history of the containment air locks and previous test results, it is unlikely that significant leakage would occur.

Based on the above, the licensee finds the amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because previous test results were satisfactory and significant leakage is not expected. Both air lock tests ensure containment integrity.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new mode of plant operation nor does it require a physical modification.

(3) Involve a significant reduction in the margin of safety. Any reduction in the margin of safety will be insignificant since air lock seal tests and air lock full pressure leakage tests will provide assurance that the air lock will not leak excessively nor affect containment integrity.

The Commission's staff has reviewed the licensee's no significant hazards consideration findings and based on its review, agrees with the licensee's conclusions. Accordingly, the staff proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629.

Attorney for licensee: R.W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

NRC Project Director: John F. Stolz.

GPU Nuclear Corp., et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, PA

Date of amendment request: February 3, 1987

Description of amendment request: A Condenser Vent Stack Continuous Iodine Sampler has been installed at TMI-1 to collect samples of radioiodine during normal plant operations. This modification will provide the capability to continuously sample the condenser offgas for radioactive gaseous iodine effluents which are released to the atmosphere through the vent stack during normal condenser air removal. Consequently, GPUN has submitted Technical Specification Change Request (TSCR) No. 157 to include additional sampling and analysis requirements in Table 4.22-2 which are commensurate with this new capability for continuous iodine sampling. Previous plant capabilities were limited to grab sampling on a monthly frequency. However, quantification of trace iodine by laboratory analysis will be better represented by continuous sampling. This will also facilitate annual dose calculations for unrestricted areas to ensure compliance with the limits of 10 CFR Part 20 and Appendix I to 10 CFR Part 50.

Basis for proposed no significant hazards consideration determination: A proposed amendment to an operating license does not involve significant hazards considerations if the three standards provided by the Commission in 10 CFR 50.92(c) are met. Pursuant to the provisions of 10 CFR 50.91, the licensee has provided an analysis of no significant hazards considerations using the Commission's standards. The Commission's staff has reviewed the licensee's proposed amendment and analysis. Each of the 10 CFR 50.92(c) standards is discussed below as it applies to the operation of TMI-1 in accordance with this TSCR for the Condenser Vent Stack Continuous Iodine Sampler:

Standard 1. The proposed amendment should not involve a significant increase in the probability or consequences of an accident previously evaluated because the release of radioiodines is unaffected. Continuous condenser offgas sampling has no effect the probability or consequences of radioiodine releases to the environment. The proposed amendment will only provide a means for more accurate quantification and assessment of these radioiodine releases due to condenser offgas system gaseous effluents. Adding this sampling system does not defeat nor degrade any existing features and functions of the condenser air removal system or offgas condenser radiation monitoring system.

Standard 2. The proposed amendment should not create the possibility of a new or different kind of accident from any accident previously evaluated. Condenser offgas sampling does not affect radioiodine releases, condenser operation, nor condenser radiation monitoring. The Condenser Vent Stack Continuous Iodine Sampler provides improved sampling capability, to allow for more accurate analysis of radioiodine releases during normal plant operation. During potential conditions of high radioiodine releases, continuous sampling is performed by another system.

Standard 3. The proposed amendment should not involve a significant reduction in a margin of safety because it requires additional sampling and analysis in the TSs vice reduced sampling. With the capability for continuous condenser offgas sampling, the ability to quantify any release of radioiodine to the environment from gaseous condenser effluents will be improved.

Accordingly, based upon the above discussion, the Commission proposes to determine that the application for amendment does not involve significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for licensee: Ernest L. Blake, Jr., of Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F Stolz.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, PA

Date of amendment request: February 5, 1987

Description of amendment request: The proposed amendment revises the operability requirements of the main steam safety valves (MSSVs). In particular, the amendment would allow operation at up to 5% full power with only two MSSVs per steam generator operable under a restrictive set of conditions. The restrictions placed on this operation include the following:

1. The plant must have been subcritical for at least one hour since power operation above 5% power.

2. The Reactor Protection System (RPSl overpower trip setpoint is set to less than 5% full power.

For power operation above 5% full power, the operability requirements for MSSVs are not being changed. The purpose of the amendment is to provide for efficient in-place testing of MSSVs following valve maintenance during Cold Shutdown or refueling.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if it meets three standards as described in 10 CFR 50.92. The Commission's staff has reviewed the licensee's analysis concerning no significant hazards considerations and finds their analysis satisfactory. Each standard is discussed in turn.

Standard 1. The proposed amendment should not involve a significant increase in the probability or consequences of an accident previously evaluated. The licensee reviewed the TMI-1 Final Safety Analysis Report (FSAR) Chapter 14 accidents that depend upon operation of the Main Steam Safety Valves (MSSVs) during some phase of the accident. Seventeen accidents were evaluated. The licensee's review indicates that operation under the proposed amendment will not impact the events analyzed in Chapter 14 of the TMI-1 FSAR and the TMI-1 Reload Reports remain bounding. Therefore, the proposed amendment to allow MSSV testing does not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

Standard 2. The proposed amendment should not create the possibility of a new or different kind of accident from any accident previously evaluated. Results of various licensee analyses indicate that MSSV operability requirements are conservatively bounded by the existing safety analysis in all cases. The proposed amendment does not change the physical design, installation, operation or maintenance of individual safety valves. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3. The proposed amendment should not involve a significant reduction in a margin of safety. The licensee's analysis indicates that the total minimum valve relief capacity per steam generator using the two smallest safety valves per steam generator is almost twice the total calculated reactor coolant system heat generation under the conditions allowed by the amendment. By requiring two MSSVs per generator, the total required relief capacity is almost four times the potential heat load. Therefore, operation under the conditions of the amendment would not involve a significant reduction in a margin of safety.

Accordingly, based on the above discussions, the Commission proposes to determine that the proposed amendment does not involve significant hazards considerations.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for licensee: Ernest L. Blake, Jr., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F Stolz.

GPU Nuclear Corp., et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, PA

Date of amendment request: February 24, 1987

Description of amendment request: A Chlorine Detecion System was installed at TMI-1 as a result of control room habitability studies conducted as part of NUREG-0737 The Chlorine Detection System provides an alarm and isolates the control room in the event of an onstie chlorine gas release. The purpose of this proposed amendment is to provide operability and surveillance requirements on this new system.

Basis for proposed no significant hazards consideration determination: In 10 CFR 50.92, the Commission provided three standards for when a proposed amendment does not involve a significant hazards consideration. The licensee's no significant hazards consideration, as presented in their February 24, 1987 application, is acceptable to the NRC staff. A discussion of each of the three standards follows:

1. Operation of the facility in accordance with the proposed amendment should not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. The design basis event related to this change is an accidental release of chlorine. The proposed amendment has no effect on the probability of occurrence of this design basis event. The potential consequences of an accidental release of chlorine are reduced because the proposed change provides additional assurance that the Chlorine Detection System (CDS) is operable and therefore capable of promptly detecting the chlorine release and initiating isolation of the control building ventilation system.

2. Operation of the facility in accordance with the proposed amendment should not create the possibility of a new or different kind of accident from any accident previously evaluated. The design basis event related to this change is an accidental release of chlorine. The proposed amendment has no effect on the possibility of creating a new or different kind of accident from any accident previously evaluated. The proposed amendment provides additional assurance that the CDS is maintained within the limits determined by the existing safety analyses and is unrelated to the possibility of creating a new or different kind of accident.

3. Operation of the facility in accordance with the proposed amendment should not involve a significant reduction in a margin of safety. The proposed criteria constitute an additional control not presently included in the Technical Specifications. Therefore, the overall margin of safety for the plant is increased.

The Commission has provided guidelines pertaining to the application of the three standards by listing specific examples in 51 FR 7750. The proposed amendment is considered to be in the same category as example (ii) of amendments that are considered not likely to involve significant hazards consideration in that the proposed change constitutes an addition control not presently included in the Technical Specifications.

Accordingly, based on the above discussions, the Commission proposes to determine that the proposed amendment does not involve significant hazards considerations.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for licensee: Ernest L. Blake, Jr., of Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F Stolz.

GPU Nuclear Corp., et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, PA

Date of amendment request: March 5, 1987

Description of amendment request: This Technical Specification Change Request (TSCR) (i.e., amendment application) proposes to raise the reactor protection system (RPS) high reactor coolant system (RCS) pressure trip setpoint from 2300 psig to 2355 psig. Also, this TSCR proposes to raise the arming threshold for the anticipatory reactor trip on turbine trip from the current 20% reactor power level to a level of 45% reactor power. This TSCR also proposes to modify the language of the basis of the Technical Specification Safety Limit section concerning High RCS Pressure Trip in order to accurately reflect the history and meaning of the current limit.

When TMI-1 was originally licensed, the high pressure reactor trip setpoint was 2355 psig, and the plant did not have an anticipatory reactor trip on turbine trip. As a result of the TMI-2 accident, the Commission decided to reduce the challenges to and opening of the power operated relief valve (PORV). As documented in NUREG-0737 the Babcock and Wilcox (B&W) designed reactors were to satisfy the Commission's concerns by (1) lowering the reactor high pressure trip setpoint to 2300 psig, (2) raising the PORV setpoint from 2250 psig to 2450 psig, and (3) installing an anticipatory reactor trip on turbine trip when reactor power was greater than 20%. However, operational experience indicated that a number of unscheduled reactor trips were caused as a result of these changes. In order to correct this undesired result, the B&W Owners Group submitted two topical reports for NRC review. Specifically, BAW-1890, "Justification for Raising Setpoint for Reactor Trip on High Pressure" was submitted in September 1985, and BAW-1893, "Basis for Raising Arming Threshold for Anticipatory Reactor Trip on Turbine Trip" was submitted in October 1985. The NRC staff approved these topical reports by Safety Evaluations dated April 22, 1986, and April 25, 1986. The basic conclusion of the NPC Safety Evaluations was that the high pressure reactor trip could be returned to its original value and the arming threshold of the anticipatory reactor trip on turbine trip could be increased to 45% with negligible changes in the PORV opening frequency. The proposed amendment is based on these BAW Topical Reports.

Basis for proposed no significant hazards consideration determination: In 10 CFR 50.92, the Commission provided three criteria for determining if a proposed amendment involves no significant hazards considerations. Each standard is discussed as follows:

1. The proposed amendment should not involve a significant increase in the probability or consequences of an accident previously evaluated. The accident analysis contained in the TMI-1 Final Safety Analysis Report (FSAR) was conducted assuming a high RCS pressure trip setpoint of 2390 psig. This conservatively bounds the proposed trip setpoint of 2355 psig. The anticipatory reactor trip on turbine trip is an additional safety feature which was not factored into FSAR analyses. The purpose of this anticipatory reactor trip, as stated in NUREG-0737 is to reduce the frequency of challenges to the PORV However, the PORV failing open is an event which has been analyzed and found acceptable in the TMI-1 FSAR. The consequences of this event are not affected by changing the anticipatory reactor trip setpoint. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. The proposed amendment should not create the possibility of a new or different kind of accident from any accident previously evaluated. The TMI-1 FSAR accident analyses bound the changes proposed in this amendment. Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment should not involve a significant reduction in a margin of safety. The NRC Safety Evaluations for the B&W Topical Reports (BAW-1890 and BAW-1893) conclude that changing these setpoints still satisfies the requirements of NUREG-0737 regarding PORV openings and PORV caused small-break loss of coolant accidents. Similarly, the requirements on these matters embodied in IE Bulletin 79-05B are also met. Also, returning the high pressure reactor trip setpoint to 2355 psig and increasing the arming threshold of the anticipatory reactor trip on turbine trip will reduce the frequency of automatic trips and thus reduce the number of challenges to plant safety systems. Analysis indicates that these setpoint changes result in a negligible increase in PORV opening frequency. Thus, the proposed amendment does not result in a significant reduction in a margin of safety.

Based on the above discussion, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for licensee: Ernest L. Blake, Jr., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F Stolz.

Mississippi Power & Light Co., System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, MI

Date of amendment request: March 19, 1987

Description of amendment request: The amendment would make three changes to the Technical Specifications [TSs]: (1) Revise Figure 6.2.1-1, "Offsite Organization," to reflect changes in the management of licensing activities, emergency planning, plant engineering, and Unit 2 construction and to reflect the addition of the training and accounting groups which are now a part of the Unit Organization; (2) revise Figure 6.2.2-1, "Unit Organization," to reflect changes in management of the plant security group, records and office services, plant technical support, and industrial safety, and to reflect deletion of the position of Technical Assistant to the GGNS General Manager and transfer of the training and accounting groups to the Offsite Organization; and (3) change TS 6.5.2-2 to reflect a title change of one of the members of the Safety Review Committee (SRC).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of significant hazards considerations in its request for a license amendment. The

licensee has concluded with appropriate bases, that the proposed amendment satisfies the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations. The NRC staff has made a preliminary review of the licensee's submittal. A summary of staff's review follows.

The proposed organizational changes would strengthen the GGNS Unit and Offsite Organizations. The changes would provide more efficient administration of plant licensing and engineering functions. Chain of command functions would be changed to ensure proper management attention to designated areas of responsibility. Consolidation of areas that have similar responsibilities would create a more effective organizational structure.

Change (1) consists of changes in the Offsite Organization. The Nuclear Licensing Department would be reorganized internally. The reorganization of the Nuclear Licensing Department would provide a more effective licensing management function, a more centralized focus on communications with the NRC and a stronger administrative function. The department would retain all the present responsibilities except for emergency planning. The emergency planning group would report to the Assistant to the Vice President, Nuclear Operations which would provide for higher level management attention to emergency planning activities. The Nuclear Plant Engineering Department would add two middle level managers to assist the Director in managing six of the seven engineering support groups in the Department. This change would provide for greater management attention and direction to the six engineering groups. A seventh group, Operational Analysis, would continue to report to the Director, thus continuing to provide independent assessments of operational problems to the Director. The responsibilities of the Nuclear Plant Engineering Department would not be changed. The transfer of the Training Superintendent and the Accountant (Controller) from the Unit Organization to the Offsite Organization would be made to facilitate the proper chain of command for the activities of these managers. The Training Superintendent is responsible for the training of all employees including radworkers and plant modification groups as well as Unit 1 operations staff. The Accountant's (Controller responsibilities include cost control activities for plant modifications in addition to cost control activities for plant operations. The Training Superintendent and Accountant will report to the Site Director, who will provide a higher level of management attention to these two functions. The GGNS Unit 2 construction manager would be downgraded from Manager to Superintendent to reflect the present suspension of construction activities at Unit 2.

Change (2) consists of changes in the Unit Organization. The Technical Support Superintendent, who presently reports to the Manager, Plant Operations, would report to the Manager, Plant Support. This transfer would allow the Manager, Plant Operations to concentrate his attention on daily operations and would more merely distribute the work load between the plant operations staff and the plant support staff. This transfer would also balance the membership on the Plant Safety Review Committee (PSRC) so that there would be three members representing plant operations functions and three members representing plant support functions. The Industrial Safety Coordinator would report to the Chemistry/Radiation Control Superintendent instead of the Manager Plant Operations to more closely coordinate industrial safety activities with radiation safety activities. The Office Services Superintendent would be downgraded to the position of a Supervisor reporting to the Records and Material Superintendent. This change would consolidate plant clerical functions thus increasing management effectiveness of these administrative activities. The Plant Security Supervisor would be upgraded to Superintendent without change in responsibilities or reporting level. The position of Technical Assistant to the GGNS General Manager would be deleted because necessary technical assistance is available from the managers of the three departments reporting to the General Manager—Manager, Plant Operation; Manager, Plant Maintenance; and Manager, Plant Support.

Change (3) is a change from the present title, Director, Nuclear Licensing and Safety, to Director, Nuclear Licensing. The word "Safety" would be deleted from the name of the department to more clearly differentiate nuclear licensing activities (which is primarily concerned with nuclear safety) from industrial safety activities.

The persons assigned to the newly created positions would meet qualification requirements specified in the Updated Final Safety Analysis Report. The proposed changes in Technical Specifications do not involve a change in plant hardware, plant operating procedures, or plant emergency procedures. The changes to the Offsite Organization would strengthen the licensing project management and administrative functions, provide a more effective management for Nuclear Plant Engineering support groups, place higher management attention on emergency planning, decrease unnecessary emphasis on Unit 2 construction and facilitate broader and higher level management attention to training and accounting activities. The changes to the Unit Organization would more equally distribute the workload between plant support staff and plant operations staff, consolidate record and clerical functions, increase the management position level for security activities, and delete an unnecessary technical assistant position. The PSRC composition would be unchanged by this reorganization but movement of the Technical Support Superintendent from the operations staff to the support staff would result in three members from each functional group on the PSRC. The proposed change to the SRC is only a change to the title of one of the members and represents no change to the membership of the body.

For the reasons cited above, the proposed organizational changes would not: Involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any accident previously evaluated; or involve a significant reduction in a margin of safety. Accordingly, the Commission proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036.

NRC Project Director: Walter R. Butler.

Northeast Nuclear Energy Co., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, CT

Date of amendment request: February 13, 1987.

Description of amendment request: The proposed amendment would lower the Reactor Water Cleanup (RWCU) system isolation set point from the existing reactor vessel low water level to the low-low water level. The proposed change would allow the

RWCU system to operate with a reactor vessel water level that is four (4) feet lower than the level allowed by the existing Technical Specifications Table 3.7.1.

Basis for proposed no significant hazards consideration determination: The proposed change to the Technical Specifications involves the automatic action of the RWCU system isolation valves which close on a low reactor vessel water level signal. The low water level signal isolates lines that penetrate the reactor vessel and the primary containment, and connect to primary systems which are not required during isolation conditions and are located outside of the primary containment.

RWCU system isolation is achieved by closure of redundant valves in the RWCU 8 inch return pipe to the reactor vessel via the feedwater piping (closure of a check valve on backflow and closure of motor operated isolation valve 1–CU–28) coincident with closure of redundant motor operator isolation valves in the 8 inch pipe from the reactor vessel via the recirculation loop to the RWCU system (isolation valves 1–CU–2 and parallel valves 1–CU–3 and 1–CU–5).

RWCU system isolation on low level limits the amount of reactor coolant that can be released into the reactor building in the unlikely event of a gross RWCU system failure outside the containment drywell. Automatic closure of the RWCU system isolation valves following a postulated failure of the primary coolant boundary that lowers the reactor vessel water level to the trip setting, prevents increased radioactivity in the RWCU system and provides added assurance against uncontrolled releases of radioactivity from the RWCU system.

Operating experience has shown that reactor safety is compromised by too many unnecessary (non accident) isolations of the RWCU system. Pressure transients and resultant coolant void collapse following main steam isolation valve closure cause the indicated water level to decrease enough to activate the low water signal and isolate the RWCU system. The capability to remove excess reactor coolant through the RWCU system while the feedwater control system throttles back to satisfy the new reduced feedwater demand is thereby lost. Without this capability there is an increase in the risk that feedwater pumps will trip (because of the slow flow control response) due to high reactor vessel water level. Failure to restart increases the frequency of dependence on emergency safety features to provide core cooling.

Lowering the reactor vessel water level trip point for RWCU isolation could increase the amount of reactor coolant water released into the reactor building. (assuming a complete severence of the eight inch RWCU system piping outside drywell containment) before RWCU system isolation by the low low water level signal. However this increase is well within design basis accident values. For primary coolant system breaks inside the containment drywell increased delay in closure of the RWCU isolation valves caused by the change from low to low-low set point signal will have little effect, because the RWCU system is itself a closed system.

Lowering the reactor vessel water level set point, which causes RWCU system isolation, would eliminate unnecessary RWCU system isolations that can occur following certain events, e.g., main steam isolation valve (MSIV) closure with subsequent indicated reactor water level decrease due to the resulting pressure spike. The licensee stated in a March 13, 1987 telephone conversation that operating experience at Millstone Nuclear Power Station, Unit No. 1 (Millstone 1), has shown that reactor safety could be enhanced by eliminating unnecessary RWCU system isolation following reactor scram. In the past, reactor scrams have caused the indicated reactor vessel water level to decrease from the normal level to the low reactor vessel water level causing unnecessary isolation of the RWCU system During this postscram recovery period the reactor feedwater control system throttles back to match the drastically reduced steam flow. If or when reactor vessel water level reaches the high level set point the feedwater pumps trip off. The proposed changes to Table 3.7.1 of the technical specifications make the RWCU system available during the postscram recovery period to bleed off excess water from the reactor vessel preventing loss of electric power to the main feedwater pumps because the feedwater could not be reduced fast enough to avoid the high water level pump trip signal. The proposed change reduces the risks associated with loss of feedwater, i.e., failure of the feedwater pump(s) to restart, and eliminates the time consuming tasks of a dedicated control room operator to restore the RWCU system to the operating condition. The net benefit of the proposed change is the increased ability to remove excess water from the reactor vessel via the RWCU system during scram recovery periods thereby preventing high reactor vessel water level which causes reactor feedwater pump trip.

The licensee has reviewed the proposed changes pursuant to 10 CFR 50.59 and has determined that they do not constitute an unreviewed safety question. The probability of occurrence or the consequences of an accident or malfunction of equipment important to safety (i.e., safety-related) previously evaluated in the final safety analysis report have not been increased. The possibility for an accident or malfunction of a different type than any evaluated previously in the final safety analysis report has not been created. There has not been a reduction in the margin of safety as defined in the basis for any technical specification.

Changes in plant response for RWCU system isolation time following a break in the RWCU system due to the proposed setpoint change are bounded by current accident analyses. Therefore, no new unanalyzed event is created. The consequences of the proposed change will not impact the margins of safety in that the fuel cladding and the primary containment and primary coolant pressure boundaries will remain intact. Although the proposed change could allow a greater quantity of core cooling water to escape into the reactor building following a RWCU system pipe break outside the drywell, the consequences are bounded by the design basis loss of coolant accident and the main steam line break.

The licensee has reviewed the proposed changes, in accordance with 10 CFR 50.92, and has concluded that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated, in that they are bounded by and do not affect the current design basis accident analyses.

2. Create the possibility of a new or different kind of accident from any previously analyzed. This is a setpoint change with no new associated failure modes. Changes in plant response due to the proposed setpoint change are bounded by current analyses. This change does not affect the function or operation of the RWCU system or the primary containment isolation system.

3. Involve a significant reduction in a margin of safety, in that this setpoint change does not affect the protective barriers and does not impact any safety limits.

The Commission has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (51 FR 7750, March 6, 1986). The changes proposed herein

most closely resemble (but are not totally aligned with) example (vi), a change which may either result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. This is a setpoint change with no new associated failure modes.

Based on the information provided by the licensee, the staff proposes to determine that the licensee request involves no significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry, & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: Cecil O. Thomas.

Pacific Gas and Electric Co., Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Plant, Unit Nos. 1 and 2, San Luis Obispo County, CA

Date of amendment request: June 10, 1986 (LAR 86-04).

Description of amendment request: The proposed amendment would revise the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Units 1 and 2 by adding the laundry/solid radwaste storage facility effluent release points to Technical Specification (TS) Figure 5.1-3, "Map Defining Unrestricted Areas and Site Boundary for Radioactive Gaseous and Liquid Effluents." The proposed change is in accordance with an NRC staff request. The laundry/solid radwaste storage facility includes two buildings, one with a solid radwaste storage area on the ground floor and a laundry on the second floor, and the other with only a solid radwaste storage area. As defined in the Standard Review Plan Sections 11.1 and 11.5, Regulatory Guide 1.21, and NUREG-0017 regarding gaseous source terms, the facility is not a major or potentially significant pathway for the release of radioactive material during normal reactor operation, including anticipated operational occurrences. Any airborne radioactive material present in this facility will be principally low-level activity in particulate form, which will be removed by HEPA filters before release to the atmosphere.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed revision to the Technical Specifications will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because (a) the radwaste storage area below the laundry was constructed as part of the original plant design as outlined in FSAR Update Section 11.5.6 and (b) in accordance with 10 CFR 50.59, a safety evaluation was performed which determined that there were no unreviewed safety questions and that a Technical Specification change was not required for construction of the laundry and the second radwaste storage building. The facility does not significantly change the function of the laundry/solid radwaste storage facility to TS Figure 5.1-3 in Technical Specification 5.1.3 is an administrative change that provides additional information and does not affect the accident analysis.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the relocation of the laundry/solid radwaste storage provisions and proposed addition to the Technical Specifications do not significantly affect the laundry/solid waste storage functions as outlined in the FSAR or changes in parameters governing normal operation.

(3) Involve a significant reduction in the margin of safety because the proposed change to include the laundry/solid radwaste storage facility in the Technical Specifications only involves inclusion of additional information that is not presently included in the Technical Specifications.

Accordingly, the licensee has determined that the proposed change to the Technical Specifications involves no significant hazards considerations. The NRC staff has reviewed the proposed amendment and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that a no significant hazards consideration is involved in the proposed amendment.

Local Public Document Room location: California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Steven A. Varga.

Pacific Gas and Electric Co., Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Plant, Unit Nos. 1 and 2, San Luis Obispo County, CA

Date of amendment request: June 10, 1986 (LAR 86-05).

Description of amendment request: The proposed amendments would change the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Units 1 and 2 to clarify the requirements of Table 4.11-2 "Radioactive Gaseous Waste Sampling and Analysis Program" for containment purge releases by specifying an appropriate lower limit of detection (LLD) for each type of analysis to be performed. The present type of activity analysis specified for principal gamma emitters with a 10^{-4} LLD would be replaced with the following expanded entry in the table: (1) Principal gamma emitters (noble gases) with a 10^{-4} LLD, (2) I-131 and I-133 with a 10^{-9} LLD, and (3) principal gamma emitters (particulate) with a 10^{-9} LLD. Also, the type of activity analysis for principal gamma emitters for the waste gas decay tank, the plant vent, and the steam generator blowdown tank vent would be clarified by adding "(noble gases)." The LLDs included in the revised Table 4.11-2 would permit detection at levels that are no more than 3% of the dose rate limits of Technical Specification 3/4.11.2.1.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves a no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from

any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed changes will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes only clarify the requirements of Table 4.11-2 and do not affect the accident analysis.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not necessitate physical alteration of the plant or changes in parameters governing normal plant operation.

(3) Involve a significant reduction in the margin of safety because the proposed changes clarify the requirements of Table 4.11-2 and provide a more conservative containment purge LLD than that presently required for principal gamma emitters (particulates) and for I-131 and I-133.

Accordingly, the licensee has determined that the proposed changes to the Technical Specifications involve no significant hazards considerations.

The NRC staff has reviewed the proposed amendments and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that a no significant hazards consideration is involved in the proposed amendments.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Steven A. Varga.

Pacific Gas and Electric Co., Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Plant, Unit Nos. 1 and 2, San Luis Obispo County, CA

Date of amendment request: August 14, 1986 (LAR 86-09).

Description of amendment request: The proposed amendments would revise the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Units 1 and 2 to change Technical Specification Figure 6.2-1, "Offsite Organization," Figure 6.2-2, "Plant Organization," and Technical Specifications 6.5.2 and 6.7 to reflect PG&E corporate and plant organizational changes and to change Technical Specification 6.5.2.9.a to specify that minutes of the General Office Nuclear Plant Review and Audit Committee (GONPRAC) meetings will be forwarded to the President within 14 working days following each meeting.

The changes to Technical Specification Figure 6.2-1 and Technical Specifications 6.5.2 and 6.7 reflect PG&E corporate organizational changes. The title of the "Executive Vice President Facilities and Electric Resources Development" was changed to "President"

The change to Technical Specification Figure 6.2-2 reflects a plant organizational change. The plant security organization is reporting to the Assistant Plant Manager-Support Services in order to provide additional management oversight of the security organization activities.

The change to Technical Specification 6.5.2.9.a specifies that minutes of GONPRAC meetings be forwarded to the President within 14 working days following each meeting to clarify the specified time period. Furthermore, it is impractical to prepare, review, distribute, and issue these minutes within a 14 calendar day schedule, considering weekends, holidays, and periodic unavailability of key personnel.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves a no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed changes will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes are all administrative in nature, involving changes in nomenclature, organizational structure, and time allowed to distribute GONPRAC minutes.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not necessitate a physical alteration of the plant or changes in parameters governing normal plant operation.

(3) Involve a significant reduction in a margin of safety because the proposed changes are administrative and do not affect accident analyses.

Accordingly, the licensee has determined that the proposed changes to the Technical Specifications involve no significant hazards considerations.

The NRC staff has reviewed the proposed amendments and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that a no significant hazards consideration is involved in the proposed amendments.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Steven A. Varga.

Pacific Gas and Electric Co., Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Plant, Unit Nos. 1 and 2, San Luis Obispo County, CA

Date of amendment request: December 19, 1986 (LAR 86-12).

Description of amendment request: The proposed action would amend Facility Operating Licenses DPR-80 and DPR-82 for the Diablo Canyon Nuclear Power Plant, Units 1 and 2, respectively, by deleting Unit 1 License Conditions 2.C.(6)h, 2.C.(8), and 2.C.(10), regarding calculations for small-break LOCAs, control of heavy loads, and masonry walls, respectively, and Unit 2 License Condition 2.C.(7), regarding masonry walls.

The staff, in a letter of December 9, 1986 to the licensee, concluded that the requirements of Section II.K.3.31 of NUREG-0737 regarding small-break LOCA calculations have been met and the requirements of License Condition 2.C.(6)h in the Unit 1 full power license have been satisfied. The staff concluded in a letter of October 24, 1986 to the licensee, that the Unit 1 License Condition 2.C.(10) regarding Phase II of the control of heavy loads is no longer necessary, and no further action on this item is required. The staff concluded, in a letter of November 4, 1986 to the licensee, that the energy-balance technique as applied to the masonry walls at the Diablo Canyon Plant is acceptable, that the masonry walls are appropriately qualified and that the

requirements set forth in License Conditions 2.C.(10) and 2.C.(7) regarding masonry walls in the Units 1 and 2 full power licenses, respectively, have been satisfied.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves a no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed revision to the will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes are administrative changes to the Facility Operating Licenses to delete license conditions no longer needed on the basis of earlier staff evaluations.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not necessitate physical alterations of the plant or changes in parameters governing normal plant operation.

(3) Involve a significant reduction in the margin of safety because the proposed changes are administrative and do not affect the accident analyses.

Accordingly, the licensee has determined that the proposed amendments to the Facility Operating License DPR-80 and DPR-81 involve no significant hazards considerations.

The NRC staff has reviewed the proposed amendments and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that a no significant hazards consideration is involved in the proposed amendments.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Steven A. Varga.

Pacific Gas and Electric Co., Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Plant, Unit Nos. 1 and 2, San Luis Obispo County, CA

Date of amendment request: February 10, 1987 (LAR 87-01).

Description of amendment request: The proposed amendments would revise the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Units 1 and 2 to allow for the replacement of a limited number of fuel rods with filler rods or vacancies if such replacement is demonstrated to be acceptable by a cycle-specific reload analysis. The current Technical Specification 5.3.1 states that each fuel assembly in the core shall contain 264 fuel rods clad with Zircaloy-4. This amendment would allow for a reduction in the number of fuel rods per assembly and replacement of defective rods with filler rods consisting of either Zircaloy-4 or stainless steel, or with vacancies. The ability to replace defective rods wth filler rods or vacancies would permit utilization of the remaining energy in fuel assemblies.

Before replacement of any fuel rods, a safety and environmental evaluation would be made by the licensee on a cycle-specific basis as part of the reload safety evaluation process. The core reload analysis ensures that the safety criteria and design limits, including peaking factors and core average linear heat rate effects, are not exceeded. An explicit model with each discrete rod identified will be used to predict core performance based on actual core inventory. The core reload methodology does not change when filler rods or vacancies are used. The filler rods or vacancies in a fuel assembly will be modeled as required for the specific core location.

Basis for proposed no significant hazards consideration determination: The Commission has provided standard for determining whether a significant hazards consideration exists (10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves a no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed change will not:

(1) Involve a significant increase in the probability of consequences of an accident previously evaluated because a reload safety evaluation will be performed for each cycle to confirm that fuel assemblies with filler rods or vacancies in specified locations will meet the mechanical, nuclear, and thermal-hydraulic limits described in FSAR Update, Chapter 4 for fuel assemblies containing 264 fuel rods.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the cycle specific reload safety evaluation will confirm that a proposed core design with filler rods or vacancies in specified locations meets existing design limits.

(3) Involve a significant reduction in the margin of safety because the proposed core designs with filler rods or vacancies in specified locations will be within existing design limits.

Accordingly, the licensee has determined that the proposed change to the Technical Specification 5.3.1, "Fuel Assemblies" involves a no significant hazards consideration.

The NRC staff has reviewed the proposed amendments and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that a no significant hazards consideration is involved in the proposed amendments.

Local Public Document Room location: California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Steven A. Varga.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Plant, Unit Nos. 1 and 2, San Luis Obispo County, CA

Date of amendment request: March 13, 1987 (LAR 87-02).

Description of amendment request: The proposed amendments would revise the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Unit 1 and 2 and to change the steam generator water level low setpoint from 25 to 15 percent of the narrow range instrument span. The specific change would be made in Table 2.2-1, "Reactor Trip System Instrumentation Trip

Setpoints," of Technical Specification 2.2.1 and the associated Bases.

Both units of the Diablo Canyon Plant have experienced spurious reactor trips at low power from the steam generator water level low coincident with steam/feedwater flow mismatch signal. Plant transients have caused the steam generator water level to drop below the low-level set point and a momentary steam/feedwater flow mismatch signal to be generated, resulting in reactor trips. An actual flow mismatch condition does not exist, but due to the sensitivity of the flow transmitters a signal is generated. Changing the setpoint for the steam generator water level low signal would significantly reduce the probability of reactor trips resulting from false flow mismatch signals.

The effect of decreasing the steam generator water level low setpoint on the FSAR Update Chapter 15 accident analyses has been evaluated. The analyses that could be affected are (1) Section 15.2.8, "Loss of Normal Feedwater," (2) Section 15.2.9, "Loss of Offsite Power to the Station Auxiliaries (Station Blackout)," and (3) Section 15.4.2.2, "Major Rupture of a Main Feedwater Pipe." As stated in the FSAR Update, accident mitigation for these three accidents is provided by the steam generator water level low-low reactor trip. The steam generator water level low coincident with steam/feedwater flow mismatch reactor trip is not considered for accident mitigation in the anaylses. The analyses demonstrate that the steam generator water level low-low reactor trip provides adequate protection for each of the accidents. The proposed steam generator water level low setpoint of 15 percent narrow range instrument span coincident with steam/feedwater flow mismatch reactor trip would continue to provide backup protection to the steam generator water level low-low reactor trip.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves a no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed change will not:

(1) Involve a significant increase in the probability of consequences of an accident previously evaluated because the steam generator water level low coincident with steam/feedwater flow mismatch reactor trip is not considered for accident mitigation in accordance with the FSAR Update accident analyses.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change in setpoint does not eliminate the steam generator water level coincident with steam/feedwater flow mismatch reactor trip.

(3) Involve a significant reduction in the margin of safety because the proposed changes are administrative and do not affect the accident analyses.

Accordingly, the licensee has determined that the proposed amendments to the Facility Operating License DPR-80 and DPR-81 involve no significant hazards considerations.

The NRC staff has reviewed the proposed amendments and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that a no significant hazards consideration is involved in the proposed amendments.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Steven A. Varga.

Pacific Gas and Electric Co., Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Plant, Unit Nos. 1 and 2, San Luis Obispo County, CA

Date of amendment request: March 13, 1987 (LAR 87-03).

Description of amendment request: The proposed amendments would change the Diablo Canyon Nuclear Power Plant combined Technical Specifications for Units I and 2 to clarify the requirements of three Technical Specifications.

The specific changes would include the following:

(1) Technical Specification 4.7.5.1, "Control Room Ventilation System," would be revised to clarify the requirements for operating redundant equipment in each train of the control room ventilation system during surveillance testing. The revision would specify the number of hours the heaters must be operating on the control room ventilation system to meet the intent of the specification and addresses how the redundant equipment of each train of the ventilation system must be tested to meet the surveillance requirements.

(2) Technical Specification 3.3.1, Table 3.3-1, "Reactor Trip System Instrumentation," would be revised to modify Action Statement 2.c to clarify the applicable thermal power level and to delete "at least once every 12 hours" from the Action Statement because the time interval for the quadrant power tilt ratio (QPTR) surveillance is already specified in Technical Specification 4.2.4.2.

(3) Technical Specification 4.3.1.1, Table 4.3-1, "Reactor Trip System Instrumentation Surveillance Requirements," would be revised to clarify that the plant heat balance surveillance requirement for the power range nuclear instruments is to be performed after 15 percent thermal power is exceeded, but before 30 percent thermal power is reached, or within 24 hours, whichever occurs first.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves a no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed changes will not:

(1) Involve a significant increase in the probability of consequences of an accident previously evaluated because a reload safety evaluation will be performed for each cycle to confirm that fuel assemblies with filler rods or vacancies in specified locations will meet the mechanical, nuclear, and thermal-hydraulic limits described in FSAR Update, Chapter 4 for fuel assemblies containing 264 fuel rods.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the cycle specific reload safety evaluation will confirm that a proposed core design with filler rods or vacancies in specified locations meets existing design limits.

(3) Involve a significant reduction in the margin of safety because the proposed core designs with filler rods or vacancies in specified locations will be within existing design limits.

Accordingly, the licensee has determined that the proposed change to the Technical Specification 5.3.1, "Fuel Assemblies" involves a no significant hazards consideration.

The NRC staff has reviewed the proposed amendments and the licensee's determination and finds it acceptable. Therefore, the staff proposes to determine that a no significant hazards consideration is involved in the proposed amendments.

Local Public Document Room location: California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: Steven A. Varga.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, NY

Date of amendment request: September 18, 1985 and March 6, 1987

Description of amendment request: This amendment request was previously noticed on March 12, 1986 (51 FR 8600). The March 6, 1987 amendment request supercedes the previous request. The purpose of these changes is to implement Technical Specifications related to containment ambient temperature. Limiting containment ambient temperature will ensure that the peak containment accident pressure does not exceed the design pressure of 47 psig during steam line break or loss of coolant accidents. This temperature limit is not currently in the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The following analysis was provided by the licensee:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not increase the probability of an accident previously evaluated. The Authority has analyzed the effect raising the containment ambient temperature to 130 °F has on peak containment accident pressure during a loss of coolant accident. The results show that the calculated peak containment accident pressure is less than the containment design pressure. Therefore, the consequences of an accident previously evaluated are unchanged.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change of increasing the containment ambient temperature to 130 °F does not create the possibility of a new or different kind of accident than previously evaluated. Limiting containment ambient temperature ensures that the peak containment accident pressure will not exceed the design pressure during steam line break or loss of coolant accidents. The Authority has evaluated these accidents previously with a containment ambient temperature of 120 °F Therefore, this analysis is not creating the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed change of increasing the containment ambient temperature to 130 °F does not involve a significant reduction in a margin of safety. The Authority performed an analysis which calculated the peak containment accident pressure using a containment ambient temperature of 130 °F. The results of the analysis for the LOCA show that the peak containment accident pressure increased to 41.2 psig, which is an increase of 0.6 psig over the value for a containment ambient temperature of 120 °F Applying this 0.6 psig increase to the steam line break analysis results in a peak containment accident pressure of 41.6 psig. Both resulting peak containment accident pressures are well below the containment design pressure of 47 psig.

Based on the above, the staff proposed to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Steven A. Varga.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, NY

Date of amendment request: March 4, 1987

Description of amendment request: The licensee provided the following description:

(a) This revision seeks to amend the Indian Point 3 Technical Specifications in response to Generic Letter 85-09 (GL 85-09) by:

(1) Revising page 3.5-8 and Table 3.5-2 to add limiting conditions for operation to the reactor trip breakers and automatic trip logic;

(2) Adding the reactor trip and bypass breakers to the surveillance test requirements of Table 4.1-1; and

(3) Revising Item 20 of Table 4.1-1 to reflect the standardized technical specification requirements for the reactor protection automatic trip logic, including the staggered test basis.

(b) Editorial changes are proposed for Table 4.1-1 of the IP-3 Technical Specifications to facilitate the incorporation of GL 85-09 changes and improve the table's coherency by:

(1) Making minor spelling and format corrections to Items 1, 14, 16, 21, 28, 30, 31, 32, 34, 35, 36, 38 and 39;

(2) Moving all footnotes to the last page of the table;

(3) Relocating Items 29 through 41 on sheets 3 through 5 to provide for a more even distribution; and

(4) Deleting the footnote tying Item 35 to degraded grid modifications as the associated modifications are now complete and Item 35 is now in effect.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3)

involve a significant reduction in a margin of safety.

The following analysis was provided by the licensee:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Neither the probability nor the consequences of an accident are increased since new surveillance requirements are being added to insure increased reliability of the reactor protection system. These new requirements reflect procedures placed in effect after installation of the shunt trip attachment to the reactor trip breakers. These current procedures independently test the undervoltage and shunt trip attachments during power operation and independently test the control room manual trip circuits during each refueling outage. Thus the proposed amendment provides additional assurance that the reactor protection system will perform as assumed in previously evaluated design basis accidents. In addition, editorial changes are also made. None of these changes increases the probability or the consequences of an accident previously evaluated.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated? The possibility of a new or different kind if accident is not created. The proposed surveillance requirements accompanying the recent shunt trip modification reduce the probability of an Anticipated Transient Without Scram.

(3) Does the proposed amendment involve a significant reduction in margin of safety?

The proposed amendment provides additional assurance that the margin of safety for previously analyzed events will not be reduced. By requiring the independent testing of the shunt trip and undervoltage coils, the proposed changes to the Technical Specifications increase the reliability of the reactor trip breakers. Thus, the proper operation of the reactor protection system as assumed in the Safety Analysis for Indian Point 3 is enhanced. This assures that the margin of safety is not reduced.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Steven A. Varga.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, NY

Date of amendment request: March 6, 1987

Description of amendment request: The licensee provided the following description:

The proposed changes to the Indian Point 3 Technical Specifications relate to the Reactor Vessel Level Indication System (RVLIS). The guidelines and recommendations of Generic Letter No. 83-37 have been utilized in preparing revisions to Tables 3.5-5 and 4.1-1. Editorial change have also been included in the revised table (i.e., columns 1, 2 and 3 headings added to Table 3.5-5, Sheet 2 of 3; footnote marked ***** was moved to top of Sheet 3 of 3, Table 3.5-5).

The purpose of these proposed changes is to incorporate the appropriate limiting conditions for operation and the surveillance requirements for RVLIS. The installation of RVLIS will be implemented in accordance with the requirements of NUREG-0737 Item II.F.2, "Instrumentation for Detection of Inadequate Core Cooling." RVLIS outputs are displayed on the plant Qualified Safety Parameter Display System. The system performs an input autocalibration sequence by automatically injecting test signals directly into every input on a regular schedule while the system is on line. The proposed limiting conditions of operation (LCO) and surveillance requirements are consistent with other Post Accident Monitoring Systems LCOs contained in Table 3.5-5 (e.g. Reactor Coolant System Subcooling Margin Monitor, Core Exit Thermocouples, etc.).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The following analysis was provided by the licensee:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Neither the probability nor the consequences of an accident previously evaluated in the FSAR are increased since the RVLIS is a new post-TMI modification aimed at enhancing the plant's overall safety. This goal is accomplished by providing the operators with an additional advanced warning of a potential Inadequate Core Cooling (ICC) condition following an accident. The proposed changes add operational criteria for RVLIS in the Technical Specifications. RVLIS does not affect the analysis of any previously evaluated accidents and decreases the consequences of small break loss of coolant accidents.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The possibility of a new or different kind of accident is not created as evidenced by the NRC Safety Evaluation Report transmitted to the Authority on May 29, 1984 which found acceptable the proposed use of the Westinghouse RVLIS. This is based on the fact that the method and manner of plant operation is unchanged. The installation of RVLIS is not an initiating event of any accident. The system is being implemented in response to NUREG-0737 Item II.F.2, and NRC Generic Letter 83-37

3. Does the proposed amendment involve a significant reduction in a margin of safety.

The proposed change incorporates RVLIS into the IP-3 Technical Specifications. RVLIS will provide the operators with an additional way of detecting a potential ICC condition. Therefore, the operators' handling of an ICC condition will be enchanced and there will be no significant reduction in a margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Steven A. Varga.

Public Service Company of Colorado, Docket No. 50-267 Fort St. Vrain Nuclear Generating Station, Platteville, CO

Date of amendment request: December 23, 1986.

Description of amendment request: The amendment would delete a table listing the shock suppressors on Class I piping systems (Table 4.3.10-1, Class I Shock Suppressors) and the references thereto, and allow Class I piping system snubbers to be intentionally removed from service for a period not to exceed 72 hours without requiring an engineering evaluation. In addition, certain typographical errors existing in the Technical Specifications will be corrected.

Basis for proposed no significant hazards consideration determination: Certain of the proposed changes to LCO 4.3.10 and SR 5.3.8 pertain to deleting the snubber tables from the Technical Specifications and correcting typographical errors. These changes are administrative in nature and will have no effect on the ability of the shock suppressors to protect the structural integrity of a safety related systems.

LCO 4.3.10.b has been chanoed. to clarify the difference in requirements for intentionally removing a snubber from service and discovering an inoperable snubber. In the first case, 72 hours allows time for repair or replacement of snubbers during power operation. No engineering evaluation is required since the time period the snubber(s) are out of service is known.

If a snubber is found inoperable and the time that it has been in this condition is in question, an engineering evaluation is reouired to determine if any plant evolutions or transients since operability was last verified have affected the associated piping and equipment.

Based on the above evaluation, it is the staff's initial determination that operation of Fort St. Vrain in accordance with the proposed changes will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in any margin of safety. Accordingly, the staff proposes to determine that the proposed changes will not involve a significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Attorney for licensee: Bryant O'Donnell, Public Service Company of Colorado, P.O. Box 840, Denver, Colorado 80201-0840.

NRC Project Director: Herbert N. Berkow.

Public Service Electric and Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, NJ

Dates of amendment request: March 13 and 26, 1987

Description of amendment request: Hope Creek FSAR Section 9.4.2.3 states that "The exhaust air transit time between the refueling area monitors and the Reactor Building Ventilation System (RBVS) exhaust system isolation dampers is greater than the combined time for damper closure and the monitor response." The FSAR identifies the exhaust air transit time as being 12 seconds and the combined monitor response and damper closure time as less than 11 seconds. The combined monitor response and damper closure time is the sum of the Refueling Floor Exhaust Radiation-High trip function response time and the Secondary Containment Ventilation System Automatic Isolation Damper Maximum isolation time. Technical Specification Table 3.3.2-3 gives the Refueling Floor Exhaust Radiation-High trip function response time as a maximum of 4.0 seconds. Technical Specification Table 3.6.5.2-1 gives the Secondary Containment Ventilation System Automatic Isolation Damper maximum isolation time as 10 seconds. Combining these values yields a combined monitor response and damper closure time of 14 seconds, which is in conflict with the FSAR statement above.

In its March 13, 1987 letter, the licensee requested that the damper isolation time of 10 seconds identified in Technical Specification Table 3.6.5.2-1 be revised to 7 seconds, as indicated in its March 26, 1987 letter. Such a change would result in a combined monitor response and damper closure time of less than 11 seconds, thereby bringing the Technical Specification into agreement with the FSAR. The licensee stated that the actual measured response times are already within the proposed response time limits.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because it constitutes a more limiting Technical Specification than is currently in place and would bring the Technical Specifications into agreement with the FSAR.

The proposed change does not create the possibility of a new or different kind of accident from an accident previously evaluated because no hardware changes to existing plant equipment are being proposed, and the dampers (and their associated isolation times) are mitigative in nature, not causal.

The proposed change does not involve a significant reduction in a margin of safety because the change actually increases the margin of safety by requiring a shorter damper isolation time, thereby bringing the Technical Specifications into agreement with the FSAR analysis.

Based on the above discussion, the staff agrees with the licensee's findings of no significant hazards consideration associated with the proposed amendment. Furthermore, the staff notes that the proposed change is similar to an Example (ii) amendment identified in the "Final Procedures and Standards or No Significant Hazards Considerations" published in the March 6, 1986 **Federal Register** (51 FR 7744) as not likely to involve significant hazards considerations. Accordingly, the staff proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 South Broadway, Pennsville, New Jersey 08070.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Elinor G. Adensam.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, CA

Date of amendment request: October 2, 1986, as supplemented April 1, 1987

Description of amendment request: The proposed Technical Specification amendment incorporates recommendations contained in Generic

Letter 84–15, "Proposed Staff Action to Improve and Maintain Diesel Generator Reliability" and includes additions and changes to the specifications which were necessitated by the addition of two Transamerica Delaval Diesel Generators to supplement onsite emergency power requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the Commission's staff agrees, that the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. Implementation of Generic Letter (G.L.) 84–15 recommendations involves changes to the operability and surveillance requirements of diesel generators. The changes add requirements for new systems, improve requirements for existing systems, and incorporate NRC recommendations. The changes demonstrate the operability of required systems to ensure safe operation of the plant. Therefore, these changes do not increase the probability or consequences of an accident.

The proposed modifications to incorporate the new diesels do not significantly alter the accident analysis in Chapter 14 of the Updated Safety Analysis Report (USAR). The modification of the electrical distribution system was designed to meet single failure criteria and withstand the effects of load rejection. The system's interaction evaluation concluded that a failure of one diesel generator and associated power distribution system would not introduce any unacceptable interactions or any failures in the remaining electrical distribution with its train. Therefore, this change does not increase the probability or consequences of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously analyzed. Implementation of G.L. 84–15 recommendations involves changes which demonstrate the operability and surveillance of critical plant systems. The changes to the operability and surveillance requirements do not create the possibility of a new or different kind of accident.

The accident analysis in Chapter 14 of the USAR is not changed by the addition of the new diesels because the additional capacity ensures that the power distribution system will support required safety related loads. The system's interaction review shows that no new or different failure modes were created. This modification does not therefore create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in a margin of safety. The changes instigated by G.L. 84–15 improve operability and surveillance requirements and therefore preserve the margin of safety. They will not reduce the margin of safety.

The design basis for the emergency power system is that a single failure of the system (including diesel generators) will not preclude the reactor protection system and safety features system from performing their safety function. The modification of the emergency power system does not change this basis. Based on the system's interaction review and the design basis documents, this change will not reduce the margin of safety. The modification to the emergency power system will provide redundant emergency power sources for the control room, technical support center, and nuclear services electrical building essential heating, ventilating, and air conditioning systems. It will also provide additional capacity for future loads while ensuring that the existing emergency power system is not overloaded. This, therefore, increases the existing margin of safety.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

NRC Project Director: John F Stolz.

Southern California Edison Co., et al, Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, CA

Dates of amendment request: August 28 and November 21, 1986.

Description of amendment request: The proposed amendments would add new license conditions for San Onofre 2 and 3 to establish the methodology to be used to determine the schedule for implementation of NRC-required plant capital modifications to San Onofre Nuclear Generating Station, Units 2 and 3. Specifically, the changes would amend the San Onofre 2 and 3 operating licenses to require the licensees to implement and maintain in effect an "Integrated Living Schedule Program Plan" (The Plan). The Plan will be used to schedule plant capital modifications that are either (1) required by the NRC rules, orders or license conditions, or (2) required to fulfill commitments made by the licensees to the NRC or other regulatory agencies. The proposed changes are consistent with the recommendations of Generic Letter 83–20, "Integrated Living Schedule for Implementation of Plant Modifications," which was issued by the NRC staff on May 9, 1983.

The Plan has as its goal the implementation of plant capital modifications in a stable, controlled manner with the implementation of projects with the greatest potential for enhancing the safe operation of the unit generally given highest priority. Projects of regulatory origin will be ranked using the Westinghouse Analytical Ranking Process to specifically determine the relative potential safety contribution of each plant capital modification. The safety ranking will then be used as a primary criterion in scheduling the projects.

The Plan will take into consideration the need to minimize outage time, and the available financial and manpower resources, while at the same time implementing those plant capital modification projects deemed necessary for enhanced plant safety. The Plan provides for integration of all future NRC-required work into one comprehensive schedule and has built-in mechanisms for changes to the schedule when new plant capital modifications are identified or when key program milestones cannot be achieved due to considerations beyond the control of the licensees.

Basis for proposed no significant hazards determination: The NRC staff proposes to determine that the proposed changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated: or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3)

involve a significant reduction in a margin of safety. The basis for this proposed finding is given below.

1. The proposed changes establish an administrative means for tracking and scheduling NRC-required plant capital modifications and commitments of the licensees. The Plan does not affect the plant configuration nor NRC-mandated schedules for implementation of modifications. Because the proposed license conditions do not affect the plant configuration, no accident analyses are affected; therefore, the proposed changes do not increase the probability or consequences of any previously evaluated accident.

2. The proposed changes will not alter the configuration of the plant or its operation; therefore, the proposed changes do not create a new or different kind of accident from any previously evaluated.

3. The proposed changes are administrative and do not affect any accident analyses or involve any modification to the plant configuration; therefore, the proposed changes do not involve a reduction in a margin of safety.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751) of amendments that are considered not likely to involve significant hazards considerations. Example (i) relates to a purely administrative change; for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The proposed change adds a new license condition requiring the establishment and maintenance of The Integrated Living Schedule Program Plan. The proposed change is administrative since this license condition will require that NRC-required plant capital modifications and plant capital modification resulting from SCE commitments be tracked and scheduled. The license condition will not allow changes to be made to NRC-required implementation dates without following existing NRC regulations for changes. Therefore, the proposed change is administrative in nature and similar to Example (i) of 51 FR 7751.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: General Library, University of California at Irvine, Irvine, California 92713.

Attorney for Licensees: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn.. David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Project Director: George W. Knighton.

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, AL

Date of amendment request: February 6, 1987.

Description of amendment request: The proposed amendment would change the technical specifications of Browns Ferry Nuclear Plant (BFN) Units 1, 2 and 3 to clarify the applicability of definition 1.0.C.2 so that the definition will not be erroneously applied while in Cold Shutdown or Refueling. This clarification is made by changing the sentence, "This is not applicable if the unit is already in Cold Shutdown or Refueling." to read "This definition is not applicable in Cold Shutdown or Refueling."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires at the time a licensee requests an amendment, it must provide to the Commission its analyses, using standards in 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from an accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

1. By clarifying that the provisions of definition 1.0.C.2 are not applicable during Cold Shutdown and Refueling, application of definition 1.0.C.2 is restricted to the operating conditions intended in the model LCO 3.0.5 provided by NRC letter dated April 10, 1980 to All Power Reactor Licensees. This clarification of the applicability of definition 1.0.C.2 only during the Run and Startup/Hot Standby modes and the Hot Shutdown condition will not result in any increase in the probability or consequences of an accident previously analyzed since it is more restrictive and consistent with the assumptions of current analyses.

2. The provisions of definition 1.0.C.2 are applicable only during the Run and Startup/Hot Standby modes and the Hot Shutdown condition will not eliminate or modify any protective functions. It does not permit any new operational conditions. It is essentially an additional restriction. Therefore, no possibility of any new or different kind of accident is created by this clarification.

3. This clarification of the applicability of definition 1.0.C.2 only during the Run and Startup/Hot Shutdown condition is administrative in nature. It does not involve any reduction in any margin of safety.

Since the application for amendment involves a proposed change that is encompassed by the criteria for which no significant hazards consideration exists, TVA has made a proposed determination that the application involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Assistant Director for Projects: John A. Zwolinski.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, MO

Date of amendment request: March 27 1987

Description of amendment request: The licensee proposes to revise Technical Specification 5.3.1 to allow for the replacement of a limited number of fuel rods with filler rods or vacancies if such replacement/vacancy is acceptable based on the results of the cycle-specific reload analysis. Also, a sentence which addresses the maximum enrichment of the initial core would be deleted.

Basis for proposed no significant hazards consideration determination:

The proposed license amendment would allow the use of filler rods or vacancies in fuel assemblies. These fuel assemblies will meet the same mechanical, nuclear, and thermal hydraulic limits as an original fuel assembly, as described in FSAR Chapter 4. The reload safety evaluation for each cycle will confirm that the use of a fuel assembly with filler rods or vacancies in a core design does not result in an existing design limit being exceeded. Therefore, this license amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

As discussed above, a fuel assembly with filler rods or vacancies satisfies the same design limits as an original fuel assembly. Therefore, this license amendment request does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As discussed above, the use of a fuel assembly with filler rods or vacancies will not result in an existing design limit being exceeded. Therefore, this change does not reduce the margin of safety.

The Commission has provided certain examples (51 FR 7744) of actions likely to involve no significant hazards considerations. Example (i) relates to a purely administrative change to the technical specifications. The amendment would also delete a sentence which addresses the maximum enrichment of the initial core. This sentence is historical and has no current applicability and therefore represents a purely administrative change.

Based on the above discussions, the amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a reduction in the required margin of safety. Based on the foregoing, the Commission has determined that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Union Electric Co., Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, MO

Date of amendment request: March 27, 1987.

Description of amendment request: This amendment application requests that the applicable modes for Item 6.g of Technical Specification Table 3.3-3 be clarified regarding the blocking, during normal plant startups and shutdowns, of auxiliary feedwater (AFW) start signals which are automatically generated upon the trip of both main feedwater pumps. This clarification would be in the form of a note that would allow the blocking of this start signal to the motor-driven AFW pumps just before shutdown of the last operating main feedwater pump during plant shutdowns and would require the restoration of this function just after the first main feedwater pump is placed into service during plant startups.

Basis for proposed no significant hazards consideration determination: This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. No credit is taken for this start signal in the accident analyses which assume that AFW actuation is generated by the low-low steam generator water level signal. This change has no effect on this or other start signals (i.e., safety injection signal, loss of offsite power) which remain available to respond to accident situations. The use of the block switches precludes the undesired ESF actuation during plant startups and shutdowns under conditions where the motor-driven startup feedwater pump provides the necessary feedwater source.

This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This is based on the fact that the method and manner of plant operation is being clarified to achieve consistency with those documents establishing the licensing bases for the Callaway Plant (i.e., NUREG-0830, SER related to the operation of the Callaway Plant, Section 7.3.2.7 and FSAR Sections 7.3.6.1.1.a, 15.2.6, and 15.2.7).

This change does not involve a significant reduction in a margin of safety. This is based on the fact that no design changes are involved and the change to clarify mode applicability is consistent with the staff's safety evaluation of the auxiliary feedwater system actuation design.

Based on the above information, the Commission has determined that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, WA

Dates of amendment requests: January 6, March 3 and 12, 1987

Description of amendment request: This proposed amendment, if approved, will change the WNP-2 Technical Specifications by modifying the Surveillance Requirements of Section 4.1.5, Standby Liquid Control System (SLCS). Specifically, this change would increase the concentration and minimum flow rate of sodium pentaborate decahydrate solution maintained in the SLCS storage tank.

The regulation for ATWS mitigation (10 CFR 50.62(c)(41) requires that the SLC System have a minimum flow capacity and boron content equivalent in control capacity to 86 gallons per minute of 13 weight percent sodium pentaborate solution. The present specification requires a minimum flow rate of 41.2 gallons per minute and a minimum concentration of 13.4 percent. Accordingly, Section 4.1.5 of the WNP-2 Technical Specifications must be changed to comply with the regulation.

The SLC System design modification at WNP-2 will result in an increased injection rate by simultaneous operation of both SLCS pumps. The minimum sodium pentaborate concentration will also be increased to 13.6 weight percent. The higher concentration levels are necessary to meet the equivalency requirements at the minimum flow rate presently required by the Technical Specifications for each of the two pumps.

Basis for proposed no significant hazards consideration determination: The proposed amendment to the WNP-2 Technical Specification to require conformance with the Regulation is similar to Example (vii) provided by the Commission (51 FR 7751, March 6, 1986) of the types of amendment not likely to involve significant hazards consideration. Example (vii) denotes an amendment to make a license conform to changes in the regulation when the license change results in very minor

changes to facility operations clearly in keeping with the regulations.

In addition, the Commission has provided standards for determining whether no significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the staff agrees, that the requested amendment per 10 CFR 50.92 does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the SLCS sodium pentaborate solution concentration and flow rate required by the NRC for reactivity control independent of the control rods exceed the values previously presented in the Technical Specification and the change does not affect the possibility of an ATWS.

(2) Create the possibility of a new or different kind of accident than previously evaluated because the increase in the SLCS tank solution flow rate and concentration provide sufficient boron to achieve a cold plant shutdown and the temperature limits are adjusted to accommodate the maximum allowable concentrations so as to preclude solute precipitation.

(3) Involve a significant reduction in a margin of safety because, over the entire range of permissible tank volumes, higher minimum SLCS tank solution concentration actually increases the boron available to achieve a cold shutdown and the rate of its addition has been increased also increasing the margin of safety.

Based on the above considerations, the Commission proposes to determine that the requested change to the WNP-2 Technical Specifications involves no significant hazards considerations.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW, Washington, DC 20036.

NRC Project Director: Elinor G. Adensam.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, WA

Date of amendment request: March 27 1987

Description of amendment request: The proposed amendment would revise the WNP-2 Technical Specifications (TS) to support the operation of WNP-2 at full rated power during the upcoming Cycle 3. The proposed amendment request to support this reload changes the Technical Specifications in the following areas: (1) Establishes operating limits for all fuel types for the upcoming Cycle 3 operation; (2) reflects the replacement of approximately 148 initial core fuel assemblies with Advanced Nuclear Fuels (ANF) Corporation fuel assemblies for the upcoming Cycle 3 operation; and (3) modifies the Bases section of the Technical Specifications to account for the use of ANF fuel assemblies.

To support the license amendment request for operation of WNP-2 during Cycle 3, the Supply System submitted, as attachments to the application, the following:

I. WNP-2 Cycle 3 Reload Summary Report (WPPSS-EANF-109) Includes the Startup Physics Test Program
II. WNP-2 Cycle 3 Reload Analysis (XN-NF-87-25)
III. WNP-2 Cycle 3 Plant Transient Analysis (XN-NF-87-24)
IV WNP-2 LOCA-ECCS Analysis MAPLHGR Results (XN-NF-85-139)
V Technical Specification Changes

During the second refueling outage approximately 148 General Electric (GE) initial fuel assemblies (approximately one fifth of the core) will be replaced with new, but substantially similar, ANF Type ANF (8 x 8c bundles, 2.72 (weight) percent enrichment), fuel assemblies.

Basis for proposed no significant hazards consideration determination: The proposed amendment to the WNP-2 Technical Specifications to support this reload is very similar to Example (iii) provided by the Commission (51 FR 7751, March 6, 1986) of the types of amendments not likely to involve significant hazards considerations. Example (iii) is an amendment to reflect a core reload where:

(1) No fuel assemblies significantly different from those found previously acceptable to the Commission for a previous core at the facility in question are involved;

(2) No significant changes are made to the acceptance criteria for the Technical Specifications;

(3) The analytical methods used to demonstrate conformance with the Technical Specifications and regulations are not significantly changed; and

(4) The NRC has previously found such methods acceptable.

This reload will consist of 764 assemblies, approximately 488 of which are twice burned (two operating cycles) GE fuel assemblies, 128 of which are once burned Exxon fuel assemblies and approximately 148 of which are new ANF fuel assemblies. The ANF fuel assemblies are very similar to the Exxon and the GE fuel assemblies except for slight differences in the mechanical, thermal-hydraulic and nuclear design.

Although the ANF fuel is very similar to the existing fuel, the slight differences in mechanical, thermal-hydraulic and nuclear design of the bundles, and the use of different analysis methodologies, required that a wide range of reanalyses be performed by ANF Corporation. These reanalyses included reanalyzing for anticipated operational occurrences, performing LOCA analyses for the ANF fuel and analyzing for the rapid drop of a high worth control rod to assure that excessive energy will not be deposited in the fuel. Analyses for normal operation of the reactor consisted of fuel evaluations in the areas of mechanical, thermal-hydraulic and nuclear design.

The use of the ANF type fuel assemblies and the associated analytical methods used for the Cycle 3 reload analyses have been previously approved by the NRC staff for use in other boiling water reactors (BWR's). Based on these prior reviews, the NRC staff has determined that there are only small differences between the use of ANF and GE analytical methods.

This core reload involves the use of fuel assemblies that are not significantly different from those found previously acceptable to the Commission for a previous core at this facility. The proposed amendment would change the Technical Specifications to reflect new operating limits associated with the fuel to be inserted into the core based on the new core physics and are within the acceptance criteria. In the analyses supporting this reload, there have been no significant changes in acceptance criteria for the Technical Specifications and those analytical methods used have previously been found acceptable by the NRC.

The only difference between this reload and Example (iii) provided by the NRC is related to the use of the ANF analytical methods which are slightly different from the GE methods used for Cycle 1 and the Exxon (now ANF) methods used for Cycle 2. The ANF analytical results are not significantly different from those previously found

acceptable to the NRC for the previous cores at WNP-2 and the methods previously have been approved by the staff for use in other BWR's.

In addition to providing examples of amendments not likely to involve a significant hazards consideration, the Commission has provided standards for determining whether no significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

On the basis of the evaluation performed in accordance with 10 CFR 50.92, and the fact that the analytical methods used have been approved previously by the NRC staff and do not provide results significantly different, the Supply System has concluded, and the staff agrees, that operation of WNP-2 in accordance with the proposed reload amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes to the Technical Specifications reflect new operating limits associated with the fuel to be inserted in the core and which are based on reanalyses using the new core physics with results that remain within the previously accepted operating limits; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the ANF fuel technology and the design of the fuel is not significantly different from that used in the previous cores which were found acceptable to the NRC staff; or (3) involve a significant reduction in the margin of safety because the margin of safety for all accidents or operational occurrences analyzed for Cycle 3 operation is either identical to or more conservative than that used for Cycle 2.

Based on the above considerations, the Commission proposes to determine that the requested change to the WNP-2 Technical Specifications involves no significant hazards considerations.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW., Washington, DC 20036.

NRC Project Director: E. Adensam.

Wisconsin Electric Power Co., Docket Nos. 50-266 and 50-301 Point Beach Nuclear Plants, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, WI

Date of amendments request: January 6, 1987

Description of amendments request: The proposed change to the Technical Specifications (TS) would provide clarification in the remarks column of Table 15.4.1-1 concerning the frequency for conduct of reactor coolant flow logic channel testing. Specifically, logic channel testing for loss of coolant flow in both loops shall be tested each refueling interval.

Basis for proposed no significant hazards consideration determination: The licensee has performed analysis in accordance with the standards of 10 CFR 50.92 to determine if the proposed change involves any significant hazards considerations. The licensee states that the proposed change provides clarification with respect to the conditions necessary for performance of a portion of a surveillance requirement and, therefore, would not increase the probability or consequences of a previously evaluated accident. Secondly, the change involves no physical or procedural changes to the plant and, therefore, would not create the possibility of a new or different kind of accident from those previously evaluated. Lastly, the licensee states that the proposed change would not involve a significant reduction in a margin of safety because the change clarifies the operational conditions necessary to perform that portion of the surveillance requirement which would not result in any reduction of a safety margin.

The staff has reviewed the licensee's analysis and concurs with their findings. The staff, therefore, proposes to determine that the amendments would involve no significant hazards considerations.

Local Public Document Room location: Joseph P Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: George E. Lear.

Wisconsin Electric Power Co., Docket Nos, 50-266 and 50-301, Point Beach Nuclear Plants, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, WI

Date of amendments request: January 8, 1987

Description of amendments request: The proposed amendments would modify the Technical Specifications to change the number of channels listed in Table 15.3.5-5, Item 10, "Containment Hydrogen Monitors" from four to two. The proposed amendments would also correct an error in Table 15.3.5-2, "Instrument Operation Conditions for Reactor Trip." The change would correctly indicate that for the low flow (both loops) trip the number of channels to trip is 2/loop (both loops) instead of 2/loop (any loop) as is currently indicated. The change would also clarify that the minimum operable channels and minimum degree of redundancy figures for the low flow trip are "per loop" figures.

Lastly, the proposed amendments would change the term "zero power physics testing" to "low power physics testing" in the footnote for Item 2 of Table 15.3.5-2 and modify the wording of the set points for Items 9, 10a and 10b of Table 15.3.5-1 to eliminate ambiguity.

Basis for proposed no significant hazards consideration determination: The licensee has evaluated the proposed Technical Specification change request with respect to the criteria of 10 CFR 50.92 and has determined that the proposed amendments would not result in a significant hazards consideration. The licensee has indicated that the proposed amendments are largely administrative in nature and are not the result of plant modifications or procedural changes; and would thus not create the possibility of a new or different kind of accident from an accident previously evaluated. Further, because the proposed amendments are not the result of physical or procedural changes, they will not increase the probability or consequences of an accident previously evaluated.

Lastly, while the amendments propose a reduction in the number of hydrogen monitor channels required by the Technical Specifications, the proposed number of channels still meets the staff guidance as contained in Generic Letter 83-37 and, therefore, would not constitute a significant reduction in a margin of safety. The remaining changes being administrative (correcting errors or clarifying language to reduce ambiguity) cannot affect the margin of safety.

The staff has reviewed the licensee's determination and concurs with their findings. Therefore, the staff proposes to determine that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: Joseph P Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: George E. Lear.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Arizona Public Service Company, et al. Docket Nos. STN 50-528 and STN 50-529, Palo Verde Nuclear Generating Station, Units 1 and 2, Maricopa County, AZ

Date of application for amendments: July 14, 1986, as supplemented by letters dated December 2, 1986, and February 9, 1987

Brief description of amendments: The amendments delete certain sections of the Technical Specifications pertaining to the fire protection program, since the program is currently in the FSAR. A change is also made to the Unit 1 license concerning the fire protection program.

Date of issuance: April 8, 1987

Effective date: April 8, 1987 to be implemented within 30 days of issuance.

Amendment Nos.. 14 and 8.

Facility Operating License Nos.. NPF-41 and NPF-51: Amendments revised the license for Unit 1 and the Technical Specifications for both Unit 1 and Unit 2.

Date of initial notice in the **Federal Register:** December 30, 1986 (51 FR 47074).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 8, 1987

No significant hazards consideration comments were received: No.

Local Public Document Room location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Arizona Public Service Company, et al. Docket Nos. STN 50-528 and STN 50-529, Palo Verde Nuclear Generating Station, Units 1 and 2, Maricopa County, AZ

Date of application for amendments: January 19, 1987

Brief description of amendments: The amendments revise the Technical Specifications to remove Main Steam Isolation Valves (MSIVs) from the list of valves that are subjected to the requirements of Specification 3/4.6.3, "Containment Isolation Valves," since another Specification 3/4.7.1.5, "Main Steam Line Isolation Valves," specifically provides the operability and surveillance requirements for the MSIVs.

Date of issuance: April 8, 1987

Effective date: April 8, 1987

Amendment Nos.. 15 and 9.

Facility Operating License Nos.. NPF-41 and NPF-51: Amendments revised the license for Unit 1 and the Technical Specifications for both Unit 1 and Unit 2.

Date of initial notice in the **Federal Register:** February 11, 1987 (52 FR 4402).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 8, 1987

No significant hazards consideration comments were received: No.

Local Public Document Room location: Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Carolina Power & Light Co., Dockets Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, NC

Date of application for amendments: August 7 1985.

Brief description of amendments: The Unit 1 amendment corrects a typographical error in the Unit 1 Facility Operating License. The Unit 2 license is amended to be consistent with the Unit 1 license by removing restrictions on by-product, source and special nuclear materials used for sample analysis or instrument calibration or associated with radioactive apparatus or components.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendments Nos.. 105 and 135.

Facility Operating Licenses Nos. DPR-71 and DPR-62. Amendment revised the licenses.

Date of initial notice in **Federal Register:** October 9, 1985 (50 FR 41243).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297

Carolina Power and Light Co., Docket No. 50-261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, SC

Date of application for amendment: December 18, 1986.

Brief description of amendment: The amendment revises the Technical Specifications by replacing the existing heatup and cooldown curves in Figures 3.1-1 and 3.1-2, respectively, with two sets of curves. The replacement curves are applicable for up to 12.5 and 15 effective full power years (EFPY), respectively.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendment No. 113.

Facility Operating License No. DPR-23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5851). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Commonwealth Edison Co., Docket No. 50-237 Dresden Nuclear Power Station, Unit No. 2, Grundy County, IL

Date of application for amendment: December 10, 1986, as supplemented January 28 and February 5, 1987

Brief description of amendment: This amendment changes the Dresden 2 License and Technical Specifications to support Cycle 11 operation.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendment No. 95.

Provisional Operating License No. DPR-19. The amendment revised the license and the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2876); February 6, 1987 (52 FR 3894). In the February 5, 1987 letter Commonwealth Edison requested, pursuant to 10 CFR 2.107 permission to withdraw that portion of its previous amendment request which originally proposed a Minimum Critical Power Ratio (MCPR) safety limit of 1.05. Commonwealth Edison agrees to continue to use the existing MCPR limit of 1.06 for residual 8x8R General Electric fuel in the Dresden Unit 2 Cycle 11 Reload. The U.S. Nuclear Regulatory Commission has granted the request of Commonwealth Edison to withdraw this portion of its December 10, 1986 application.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Dairyland Power Cooperative, Docket No. 50-409, La Crosse Boiling Water Reactor, Vernon County, WI

Date of application for amendment: March 20, 1984 as amended August 24, 1984.

Brief description of amendment: The amendment authorizes changes to the Technical Specifications pertaining to (1) new reporting requirements of 10 CFR 50.73 and (2) addition of details to the requirements of the reports for diesel generator failures.

Date of Issuance: April 8, 1987

Effective date: April 8, 1987

Amendment No.. 55.

Provisional Operating License No. DPR-45. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984 (49 FR 25358); October 24, 1984 (49 FR 42816).

The Commission's related evaluation for the license amendment is contained in a Safety Evaluation dated April 8, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Duke Power Co., et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, SC

Date of application for amendments: December 13, 1985.

Brief description of amendments: The amendments change the Technical Specifications related to reporting requirements for primary coolant iodine spikes, and delete existing shutdown requirements if coolant iodine activity limits are exceeded for 800 hours in a 12 month period.

Date of issuance: April 1, 1987

Effective date: April 1, 1987

Amendment Nos.. 25 and 15.

Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 27 1986 (51 FR 30565). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 1, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Duke Power Co., et al., Docket Nos 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, SC

Date of application for amendments: July 31, 1985, as supplemented October 10, 1986.

Brief description of amendments: The amendments would modify Technical Specification Surveillance Requirement (4.8.2.1.1a.3) to allow battery operation when there is minor electrolyte leakage.

Date of issuance: April 1, 1987

Effective date: April 1, 1987

Amendment Nos.. 26 and 16.

Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5852). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 1, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Duke Power Co., et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, SC

Date of application for amendments: July 31, 1985, as supplemented November 8, 1985, March 7 and October 1 and 10, 1986.

Brief description of amendments: The amendments modify Technical Specifications 6.5, 6.6, 6.8 and 6.10 regarding "Administrative Controls."

Date of issuance: April 2, 1987

Effective date: April 2, 1987

Amendment Nos.. 27 and 17

Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5852). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 2, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Florida Power Corp., et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, FL

Date of application for amendment: February 17 1986, as supplemented November 19 and 25, 1986, and February 17 1987

Brief description of amendment: The amendment changed the expiration date for Facility Operating License No. DPR-72 from September 25, 2008 to December 3, 2016, 40 years from the issuance of the operating license.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendment No.: 97

Facility Operating License No. DPR-72. Amendment revised the operating license.

Date of initial notice in **Federal Register:** October 8, 1986 (51 FR 36090). Since the date of the initial notice, the licensee submitted clarifying information dated November 19 and 25,

1986, and February 17, 1987 This information did not change the original application in any way and, therefore, did not warrant renoticing.

The Commission's related evaluation of the amendment is contained in an Environmental Assessment dated March 26, 1987 and a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629.

Florida Power Corp., et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, FL

Date of application for amendment: September 2, 1986, as supplemented January 15, 1987

Brief description of amendment: The amendment relaxes action statements for Technical Specification (TS) 3.8.1.1 in order to increase diesel generator reliability. A supplemental submittal on January 15, 1987 made clarifications in the Bases of the TS.

Date of issuance: April 7 1987

Effective date: April 7 1987

Amendment No.: 98.

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 19, 1986 (51 FR 41854). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 7 1987

No significant hazards consideration comments received: No.

Local Public Document Room Location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida 32629.

Florida Power and Light Co., et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, FL

Date of application of amendments: July 19, 1985.

Brief description of amendments: The amendment for the St. Lucie Plant, Unit No. 1 revised the technical specifications to add Incore Thermocouples, Containment Sump Water Level (narrow and wide ranges), Containment Pressure, and Reactor Vessel Level Monitoring System to Tables 3.3-11 and 4.3-7 The amendment for St. Lucie Plant, Unit No. 2 revised the technical specifications to add the Reactor Vessel Level Monitoring System to Tables 3.3-10 and 4.3-7 Appropriate operability and actions statements and surveillance requirements were included.

Date of Issuance: April 7, 1987

Effective Date: April 7, 1987.

Amendment Nos.. 79 and 19.

Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 11, 1985 (50 FR 37073 at 37082).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 7 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida 33450.

Georgia Power Co., Oglethorpe Power Corp., Municipal Electric Authority of Georgia, City of Dalton, GA, Docket No. 50-321, Edwin I. Hatch Nuclear Plant, Unit No. 1, Appling Count, GA

Date of application for amendment: September 9, 1986

Brief description of amendment: The amendment modifies the description of the refueling interlock surveillance requirements to clarify them.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendment No.. 135.

Facility Operating License No. DPR-57. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5855).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room Location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

GPU Nuclear Corp., et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, PA

Date of application for amendment: January 28, 1987

Brief description of amendment: This amendment prescribes additional fire detection and suppression operability requirements that encompass the fire protection modifications accomplished during the 6R outage as part of the commitments to satisfy 10 CFR Part 50, Appendix R.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendment No. 127

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5856) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Indiana and Michigan Electric Co., Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, MI

Date of application for amendments: November 13, 1986.

Brief description of amendments: The amendments change the Technical Specifications to clarify that Section 3/4.4.5 allows crevice flushing of steam generators in Mode 4. This is a partial approval of the licensee's proposed amendment to change the overall intent from operable to integrity.

This amendment also changes Table 4.4-1, footnote 2, to require second and subsequent inspections on one steam generator during each inspection.

Date of issuance: April 1, 1987

Effective date: April 1, 1987

Amendment Nos.. 103 and 89.

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 17 1986 (51 FR 45203) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 1, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana and Michigan Electric Co., Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, MI

Date of application for amendments: August 19, 1986.

Brief description of amendments: The amendments would change the Technical Specifications on snubbers to correct a number of errors, and to allow surveillance inspections to be performed sooner. The change to clarify that the fluid observation port at the entrance to the valve operator must be checked and full to have an operable snubber was deleted and agreed to by the licensee.

Date of issuance: April 7 1987

Effective date: April 7 1987
Amendment Nos.. 104 and 91.
Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 24, 1986 (51 FR 33951).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 7 1987
No significant hazards consideration comments received: No.
Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana and Michigan Electric Co., Docket No. 50-315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, MI

Date of application for amendment: December 5, 1986.
Brief description of amendment: The amendment revises the Technical Specifications for the Quadrant Power Tilt Ratio to require that limits be verified once per hour for twelve hours or until verified acceptable at 95% or greater rated thermal power.
Date of issuance: April 7 1987
Effective date: April 7 1987
Amendment No.. 105.
Facility Operating License No. DPR-58. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** January 14, 1987 (52 FR 1555) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 7 1987
No significant hazards consideration comments received: No.
Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Louisiana Power and Light Co., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, LA.

Dates of applications for amendment: October 15, 1986, as supplemented by letters dated November 19, 1986 and February 9, 1987
Brief description of amendment: The admendment revised the Technical Specifications by updating the organizational charts in Sections 6 to reflect the reorganization within LP&L's Nuclear Operations group. The November 19, 1986 and February 9, 1987 letters were explanatory in nature and did not make any substantive changes.
Date of issuance: April 3, 1987
Effective date: April 3, 1987
Amendment No.. 18.
Facility Operating License No.. *NPF-38.* Amendment revised the Technical Specifications.
Dates of initial notice in **Federal Register:** December 17 1986 (51 FR 45208).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1987
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Maine Yankee Atomic Power Co., Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, ME

Date of application for amendment: October 7 1982, April 13, 1984, and March 4, 1985, clarified April 26, 1985.
Brief description of amendment: The amendment changed the Maine Yankee Technical Specifications (TS) such that the areas of the TS concerning operability and surveillance for new noble gas effluent monitors, high range radiation monitors and water level monitors in the containment are simplified. The areas of the TS concerning surveillance requirements for Containment Pressure Monitors were changed to reflect certain aspects of NUREG-0737 In addition, the entire Section 3.9 of the TS was rewritten to reflect an overall simplification of language.
Date of issuance: March 26, 1987
Effective Date: March 26, 1987
Amendment No.: 94.
Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 33082); June 20, 1984 (49 FR 25363) and May 21, 1985 (50 FR 20969 at 20983). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 1987
No significant hazards consideration comments received: No.
Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Maine Yankee Atomic Power Co., Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, ME

Date of application for amendment: April 3, 1981 as supplemented April 10, 1984 and September 12, 1985.
Brief description of amendment: The amendment revised the testing requirements for hydraulic shock suppressors (snubbers) and added requirements for mechanical snubber operability and testing.
Date of issuance: April 3, 1987
Effective Date: April 3, 1987
Amendment No.: 95.
Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** June 20, 1984 (49 FR 25363 and November 19, 1986 (51 FR 41843 at 41863).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1987
No significant hazards consideration comments received: No.
Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Mississippi Power & Light Co., System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, MI

Date of application for amendment: October 17 1986.
Brief description of amendment: The proposed amendment would change the Technical Specifications (TSs) by: (1) Deleting the two-minute time limit for closing a stuck open safety relief valve (SRV) and changing the temperature limit of the suppression pool water from 105° to 110 °F· (2) adding a requirement to bypass the thermal overload protection device for the motor operated valve in the reactor core isolation cooling (RCIC) turbine bypass line; and (3) changing the nomenclature of a secondary containment isolation valve in the residual heat removal (RHR) discharge line to the liquid radwaste system.
Date of issuance: March 31, 1987
Effective date: March 31, 1987
Amendment No. 29.
Facility Operating License No. NPF-29. This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 26, 1986 (52 FR 5862).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987
No significant hazards consideration comments received: No
Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Mississippi Power & Light Co., System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, MI

Date of application for amendment: May 22, 1986 as revised December 9, 1986 and January 29, 1987

Brief description of amendment: This amendment changes the Technical Specifications (TSs) for alternating current electrical power systems by reducing excessive testing of the three onsite emergency diesel generators to be consistent with the recommendations provided in the NRC Generic Letter 84-15 "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability."

Date of issuance: March 31, 1987.

Effective date: March 31, 1987

Amendment No. 30.

Facility Operating License No. NPF-29. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5859).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Mississippi Power & Light Co., System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, MS

Date of application for amendment: May 28, 1986 as amended November 11, 1986 and February 13, 1987

Brief description of amendment: This amendment changes the Technical Specifications (TSs) for the drywell airlock by: (1) Changing the wording to indicate only one drywell airlock; (2) rearranging Action Statement "a" to clarify that all actions in the statement are parts of the same action; (3) changing the drywell overall airlock leakage test frequency from the present, once per six months, to each cold shutdown if not performed within the previous six months; (4) changing the surveillance requirement regarding the verification that only one door in the airlock can be opened at a time from once per six months to once per 18 months; and (5) changing the drywell airlock inflatable seal pressure instrumentation channel functional test from once per 31 days to once per 18 months.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendment No. 31.

Facility Operating License No. NPF-29. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5861).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Mississippi Power & Light Co., System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, MS

Date of application for amendment: November 11, 1986, as revised January 20, 1987

Brief description of amendment: The requested amendment changes the Technical Specifications and associated Bases for the reactor pressure vessel (RPV) pressure and temperature limits to be consistent with the limits provided by the vendor for the nuclear steam supply system, General Electric Company.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendment No. 32.

Facility Operating License No. NPF-29. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5863).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, NE

Date of application for amendment: August 19, 1986.

Brief description of amendment: The amendment deleted the tabular listings of safety-related snubbers from the Technical Specifications in accordance with Generic Letter 84-13.

Date of issuance: March 26, 1987

Efffective date: Within 30 days of issuance.

Amendment No.. 105.

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 10, 1986 (51 FR 32264 at 32278).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. I, Washington County, NE.

Date of application for amendment: January 7 1986 [sicl-(1987).

Brief description of amendment: The amendment modifies the surveillance requirements for the hydrogen and oxygen monitoring system for the waste gas decay tanks to clarify that a daily channel check is required for this system when it is in service.

Date of issuance: March 26, 1987

Effective date: March 26, 1987

Amendment No.: 106.

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 11, 1987 (52 FR 4400 at 4414).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, NE

Date of application for amendment: January 8, 1986 [sic] (1987).

Brief description of amendment: The amendment deleted the hydrogen flouride detectors from Tables 2-11 and 3-3 of the Technical Specifications.

Date of issuance: March 30, 1987

Effective date: March 30, 1987

Amendment No.. 107

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5864).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215

South 15th Street, Omaha, Nebraska 68102.

Pennsylvania Power & Light Co., Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, PA

Date of application for amendments: December 26, 1985.

Brief description of amendments: The licensee in their December 26, 1985, submittal requested several Technical Specification changes for Units 1 and/or 2 which are administrative in nature. The Technical Specification changes are described below:

(1) Corrections to Table 3.6.3-1 (Units 1 and 2) (a) Containment Instrument Gas *Unit 1:* Page 3/4 6-25 of the Unit 1 Technical Specifications (TS) previously listed valve number 1-26-070 as an isolation valve in the Containment Instrument Gas System. The amendment deletes this valve from the Table, and adds valve number 1-26-164. *Unit 2:* Page 3/4 6-25 of the Unit 2 Technical Specifications deletes valves 2-26-070 from Table 3.6.3-1. (b) High Pressure Coolant Injection (HPCI) *Unit 1:* The amendment adds valve HV-155F046 as a Minimum Recirculation Flow (penetration X-211) isolation valve on Page 3/4 6-26. *Unit 2:* Page 3/4 6-25: the amendment adds valve HV-255F046 as a Minimum Recirculation Flow isolation valve. (c) Reactor Core Isolation Cooling (RCIC) *Unit 1:* Page 3/4 6-26 lists HV-149F019: the amendment adds HV-149F021 as a RCIC minimum recirculation flow (penetration X-216) isolation valve on Page 3/4 6-26. *Unit 2:* Page 3/4 6-26: the amendment adds valve HV-249F021 as a minimum Recirculation Flow isolation valve. (d) Integrated Leak Rate Testing (ILRT) *Unit 1:* Page 3/4 6-24 contained a typographical error. Valve 1-57-195 now reads 1-57-194.

(2) Addition to Plant Operations Review Committee (PORC) Membership *Units 1 and 2:* The licensee has added the Assistant Superintendent-Outages to the PORC Composition listing in Section 6.5.1.2.

(3) Deletion of Offsite Organization Position *Units 1 and 2:* The deletion of the position "Vice President-Engineering and Construction-Nuclear" and the subsequent realignment as indicated in Figure 6.2.1-1 reflects PP&L's shift from construction to operation of the Susquehanna plant.

(4) Generic Letter No. 85-19 *Units 1 and 2:* The licensee has changed both Units 1 and 2 Technical Specifications based on the recommendations of Generic Letter 85-19, "Reporting Requirements on Primary Coolant Iodine Spikes" The licensee has added the appropriate information in accordance with Generic Letter 85-19.

(5) Snubbers *Unit 1:* Two changes have been made to specification 3/4.7.4: (1) Deletion of references to Table 3.7.4-1. Removal of the snubber table was approved by NRC via Amendment 36 to the Unit 1 Operating License. The references to it were inadvertently left in the text of Specification 3/4.7.4. (2) Correction of sampling expression. The correct expression is 35 (1 + C/2).

Date of issuance: April 6, 1987

Effective date: April 6, 1987.

Amendment Nos.. 63 and 34.

Facility Operating License Nos. NPF-14 and NPF-22: Amendments revised the Technical Specifications.

Dates of initial notice in **Federal Register:** May 21, 1986 (51 FR 18690).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 6, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, OR

Date of application for amendment: January 31, 1986, as supplemented May 16, 1986 and February 26, 1987

Brief description of amendment: The amendment revises the Technical Specification (TS) by providing editorial corrections to TS Sections 4.4.6.1.b and 3.4.9.3. Table 3.6-1 is revised to permit the operation of valve MD-059 to be administratively controlled in order to provide consistency between TS Sections 3.6.1.1, 3.6.3.1 and 3.7.8.3.

By letter dated February 26, 1987, PGE requested that the portion of this application pertaining to the deletion of valve CV-8825 from Table 3.6-1 be withdrawn.

Date of issuance: April 2, 1987

Effective date: April 2, 1987

Amendment No.: 126.

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 30, 1986 (51 FR 27287).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 2, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon 97205.

Portland General Electric Co., et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, OR

Date of application for amendment: October 31, 1986.

Brief description of amendment: The amendment revises the reactor vessel material irradiation surveillance schedule and the pressure-temperature limits.

Date of issuance: April 9, 1987

Effective date: April 9, 1987

Amendment No.. 127

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5865).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon 97205.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, NY

Date of application for amendment: December 19, 1986, as supplemented January 9, 1987 and March 13, 1987.

Brief description of amendment: The amendment changes Table 3.7-1 of the Technical Specifications to reflect installation of new containment isolation valves in the Traveling Incore Probe Purge System, Recirculation Pump Mini-Purge System, and ADS Accumulator System.

Date of issuance: April 3, 1987

Effective date: April 3, 1987

Amendment No.. 108.

Facility Operating License No. DPR-59. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2887). The January 9 and March 13, 1987 submittals provided clarifying information and did not change the finding of the initial notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of the State of New York, Docket No. 50-333, James A FitzPatrick Nuclear Power Plant, Oswego County, NY

Date of application for amendment: December 23, 1986, as supplemented March 13, 1987

Brief description of amendment: The amendment changes the Technical Specifications to permit fuel reloading and Cycle 8 operation. Included in the Cycle 8 core will be four Westinghouse QUAD+ demonstration fuel assemblies.

Date of issuance: April 3, 1987

Effective date: April 3, 1987

Amendment No.. 109.

Facility Operating License No. DPR-59. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2888). The March 13, 1987 submittal provided clarifying information and did not change the finding of the initial notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, NY

Date of application for amendment: September 19, 1985.

Brief description of amendment: The amendment changes the Technical Specifications to revise notification and reporting requirements, as requested by NRC Generic Letter 83-43 dated December 19, 1983, to be consistent with the new requirements in 10 CFR 50.72 and 50.73.

Date of issuance: April 3, 1987

Effective date: April 3, 1987

Amendment No.. 110.

Facility Operating License No. DPR-59. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 20, 1985 (50 FR 47869).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, NY

Date of application for amendment: January 14, 1987

Brief description of amendment: The amendment revises the Technical Specifications to permit the discharge of more than one region of fuel (72 assemblies) from the reactor after 162 hours have elapsed since shutdown.

This elapse time was 400 hours.

Date of issuance: April 2, 1987

Effective date: April 2, 1987

Amendment No.: 72.

Facilities Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5866).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 2, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, CO

Date of application for amendment: May 10, 1984 as supplemented December 27 1984.

Brief description of amendment: The amendment increases the Circulator Speed-High Steam trip setting listed in Table 4.4-3 of the Technical Specifications.

Date of issuance: April 6, 1987

Effective date: April 6, 1987

Amendment No.. 52.

Facility Operating License No. DPR-34. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 20, 1984 (49 FR 25372).

The December 27 1984 submittal provided supplemental information and did not change the initial determination published in the **Federal Register.** The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 6, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Public Service Electric & Gas Co., Docket No. 50-354, Hope Creek Generating Station, Salem County, NJ

Dates of application for amendment: May 30, 1986, as supplemented on December 24, 1986, and February 6, 1987

Brief description of amendment: This amendment revises the Technical Specifications to permit long-term operation with one recirculation loop out of service.

Date of issuance: April 7 1987

Effective date: April 7 1987

Amendment No.. 3.

Facility Operating License No. NPF-57: Amendment revises the Technical Specifications.

Date of initial notice in the **Federal Register:** January 28, 1987 (52 FR 2889).

The February 7 1987 submittal provided clarifying information and did not change the finding of the initial notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 7 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 South Broadway, Pennsville, New Jersey 08070.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, CA

Date of application for amendment: December 18, 1984, as revised April 26, 1985, supplemented May 22, 1985, and superseded October 30, 1985.

Brief description of amendment: This amendment revised the TSs by establishing limiting conditions for operation based on the Spent Fuel Pool (SFP) water temperature. It included requirements for use of the Decay Heat Removal System as an alternate/supplemental SFP cooling means when SFP temperatures reach specified limits.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendment No.. 84.

Facility Operating License No. DPR-54. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 4, 1986 (51 FR 20373).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

South Carolina Electric & Gas Co., South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, SC

Date of application for amendment: June 27 1986, as supplemented November 21, 1986, and February 25, 1987

Brief description of amendment: The amendment reduces the reactor coolant system flow measurement uncertainty from 3.5% to 2.1%.

Date of issuance: March 30, 1987.

Effective date: March 30, 1987

Amendment No. 60.

Facility Operating License No. NPF-12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 30, 1986 (51 FR 27269).

The letters dated November 21, 1986, and February 27 1986, provided supplemental information and did not change the initial determination published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

South Carolina Electric & Gas Co., South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, SC

Date of application for amendment: December 11, 1986.

Brief description of amendment: The amendment increases the required boron concentration for the accumulators and the refueling water storage tank.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendment No. 61.

Facility Operating License No. NPF-12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5868).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

South Carolina Electric & Gas Co., South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, SC

Date of application for amendment: December 9, 1986, as supplemented March 2, 1987

Brief description of amendment: The amendment allows the licensee the flexibility to reconstitute fuel assemblies.

Date of issuance: April 2, 1987

Effective date: April 2, 1987

Amendment No.: 62.

Facility Operating License No. NPF-12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5868).

The March 2, 1987 letter provided supplemental information which did not change the initial determination published in the **Federal Register.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 2, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

South Carolina Electric & Gas Co., South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, SC

Date of application for amendment: April 29, 1985 as supplemented June 10, 1985.

Brief description of amendment: The amendment revises Technical Specification (TS) 3/4.8.4 "Electrical Equipment Protective Devices" by indicating which devices are required to be operable and by elimmating the specific list of electrical equipment protective devices for containment penetrations (Table 3.8.1) from the TS. The amendment also incorporates the administrative page numbering changes to the Index and the TS pages that are necessary as a result of deleting the table.

Date of issuance: April 6, 1987

Effective date: April 6, 1987

Amendment No.: 63.

Facility Operating License No. NPF-12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 9, 1986 (51 FR 12239).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 6, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Southern California Edison Co., et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, CA

Dates of applications for amendments: March 17, June 13, and September 30, 1986 (Reference PCN-192).

Brief description of amendments: The amendments revise Technical Specification 3/4.8.1.1, "Electrical Power Systems, AC Sources," concerning reduced frequency of Emergency Diesel Generator (EDG) fast starts, reduced number of EDG tests and revised diesel fuel oil surveillance.

Date of issuance: April 9, 1987

Effective date: April 9, 1987 to be implemented within 30 days of issuance.

Amendment Nos.. 59 and 48.

Facility Operating License Nos. NPF-10 and NPF-15. Amendments revise the Technical Specifications.

Date of initial notices in **Federal Register:** February 11, 1987 (52 FR 4418).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: General Library, University of California at Irvine, Irvine, California 92713.

Union Electric Co., Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, MO

Date of application for amendment: January 9, 1986.

Brief description of amendment: The amendment modifies the Technical Specifications to require 48 hour restoration in the event of loss of one of the diverse reactor trip features, independent verification of the operability of the undervoltage and shunt trip attachments, and independent testing of the control room manual reactor trip switch contacts during each refueling outage.

Date of issuance: April 3, 1987

Effective date: April 3, 1987

Amendment No.. 19.

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 27, 1986 (51 FR 30583).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Vermont Yankee Nuclear Power Corp., Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, VT

Date of application for amendment: January 30, 1979, as supplemented November 27 1984.

Brief description of amendment: The amendment changes the Technical Specifications to require that the inservice examinations of the piping, components, and their supports be performed in accordance with 10 CFR 50.55a(b)(2) rather than by an earlier edition of the ASME Code Section XI. The remainder of the requests contained in the January 30, 1979 and November 27 1984 applications pertain to NRC's continuing review of the inservice Inspection and Inservice Testing programs, and will be acted upon separately.

Date of issuance: March 31, 1987

Effective date: March 31, 1987

Amendment No.: 99.

Facility Operating License No. DPR-28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38425).

The November 27 1984 submittal provided additional clarifying information and therefore did not change the determination of the initial **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Virginia Electric and Power Co., et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, VA

Date of application for amendments: November 25, 1986.

Brief description of amendments: The amendments modify Technical Specifications 3/4.12 (Radiological Monitoring) to reflect established practices, to agree with NRC approved documents, and to conform to NRC guidance.

Date of issuance: March 31, 1987

Effective date: 14 days from the date of issuance.

Amendment Nos.: 92 and 77

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5870).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comments received: No.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, WA

Date of amendment request: July 10, 1986.

Brief description of amendment: This amendment revises WNP-2 Technical Specification 3.4.2 (Safety/Relief Valves) and Bases Section 3/4.4.2 to reflect revised safety/relief valve setpoint tolerances for all 18 valves and to reflect a revised setpoint for 2 valves.

Date of issuance: March 27 1987

Effective date: March 27 1987

Amendment No.. 38.

Facility Operating License No. NPF-21: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** September 10, 1986 (51 FR 32282).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, WA

Date of amendment request: May 27 1986.

Brief description of amendment: This amendment changes the reporting requirements for iodine spiking to eliminate the short term reporting requirements of Technical Specification 3.4.5, instead requiring that iodine spike reporting be added to the Annual Report required by Technical Specificaiton 6.9.1.5.

Date of Issuance: March 31, 1987

Effective Date: March 31, 1987

Amendment No.. 39.

Facility Operating License No. NPF-21: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** August 13, 1986 (51 FR 29016).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1987

No significant hazards consideration comment received: No.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity for Hearing (Exigent or Emergency Circumstances)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the

Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By June 5, 1987 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Project Director):* Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i) through (v) and 2.714(d).

Alabama Power Co., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, AL.

Date of application for amendments: September 2, 1986, as supplemented February 9, 25, and 27 1987

Brief description of amendments: Technical Specification (TS) 4.7-9 is changed on a one-time basis and Table 4.7-3 is added for the same time periods. The changes are related to visual inspection requirements of snubbers at both units and are based on the

application of statistical methodology while meeting the existing confidence levels. The February 25, 1987 request is a revision of the September 2, 1986, request.

Date of issuance: March 30, 1987

Effective date: March 30, 1987

Amendment Nos.: 69 and 61.

Facilities Operating License Nos. NPF-2 and NPF-8. Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. Comments were requested on the initial application of September 2, 1986, which was noticed on October 22, 1986 (51 FR 37503). No significant hazards consideration comments received: No. The Commission's related evaluation of the amendment, and final no significant hazards considerations determination are contained in a Safety Evaluation dated March 30, 1987

Attorney For Licensee: Ernest L. Blake, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

NRC Project Director: Lester S. Rubenstein.

Cleveland Electric Illuminating Co., Duquesne Light Company, Ohio Edison Co., Pennsylvania Power Co., Toledo Edison Co., Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, OH

Date of Application for amendment: March 4, 1987 as supplemented on March 19, 1987

Brief description of amendment: The amendment changes the maximum isolation time allowed by the Technical Specifications from 50 seconds to 20 seconds for operation of the Reactor Core Isolation Cooling (RCIC) system inboard containment isolation valve. It also deletes from the Technical Specifications the load represented by the valve's direct-current (DC) operator and identification of the motor control center through which DC power is supplied to the operator. These changes are being made in relation to conversion of this normally-closed, DC motor operated valve to be normally-open with an alternating-current (AC) operator.

Date of Issuance: April 1, 1987.

Effective Date: April 1, 1987

Amendment No.. 3.

Facility Operating License No. NPF-58: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (52 FR 7346, March 10, 1987). By letter dated March 19, 1987, the licensees submitted information concerning future activities relative to the RCIC System, but this information did not change the initial application or result in changing the no significant hazards determination. Therefore, no renotice of the application was warranted.

The Commission's related evaluation of the amendment, consultation with the State of Ohio, and finally no significant hazards considerations determination are contained in a Safety Evaluation dated April 1, 1987

Attorney For Licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

NRC Project Director: Walter R. Butler.

Indiana and Michigan Electric Co., Docket No. 50-316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, MI

Date of Application for amendment: March 30, 1987

Brief description of amendment: The amendment revises the Technical Specification on a one-time basis to allow the weights of three row 8 baskets to be substituted for three adjacent row 9 baskets in the ice condenser.

Date of Issuance: April 3, 1987

Effective Date: April 3, 1987

Amendment No.: 90.

Facility Operating License No. NPR-74: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1987

Attorney For Licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

Local Public Document Room location: Maude Preston Palenske Memorial Library,

500 Market Street, St. Joseph, Michigan 49085.

NRC Project Director: B. J. Youngblood.

Toledo Edison Co. and The Cleveland Electric Illuminating Co., Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, OH

Date of Application for amendment: March 30, 1987 (telecopied), as confirmed March 31, 1987

Brief description of amendment: This amendment revised the TSs to change from four to three the minimum number of sequencer channels for emergency diesel generator loading required to be operable.

Date of Issuance: April 3, 1987.

Effective Date: April 30, 1987

Amendment No.. 102.

Facility Operating License No. NPF-3: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

State Contacted: In accordance with the Commission's regulations, consultation was held with the State of Ohio by telephone. The state expressed no concern either from the standpoint of safety or of our no significant hazards consideration determination.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated April 3, 1987

Attorney for Licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, OH 43606.

NRC Project Director: John F Stolz.

Dated at Bethesda, Maryland, this 16th day of April, 1987.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II.

[FR Doc. 87-8932 Filed 4-21-87; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, 50-287]

Duke Power Company (Oconee Nuclear Station, Units 1, 2 and 3); Confirmatory Order Modifying Licenses

I

Duke Power Company (DPC or the licensee) is the holder of Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55 which authorize the operation of Oconee Nuclear Station, Units 1, 2 and 3 (the facilities) at power levels not in excess of 2568 megawatts thermal of each unit. The facilities consist of pressurized water reactors located at the licensee's site in Oconee County, South Carolina.

II

On April 3, 1987 by telephone and subsequently by letter dated April 6, 1987 the licensee for Oconee Units 1, 2 and 3 informed the staff that recent fouling in the low pressure service water (LPSW) system (lake water) side of the reactor building cooling units (RBCU) and low pressure injection (LPI) coolers had resulted in an inability to transfer total design basis accident (DBA–LOCA) heat loads. Consequently, the licensee has reduced power levels in Oconee Units 1 and 2 to a maixmum of 91.5% and 81.7%, respectively, in order to match accident (LOCA) heat transfer requirements with the capability of the degraded heat exchangers. Oconee Unit 3 is currently shutdown and its affected heat exchangers will be cleaned and performance tested during the outage and assured they are operable and declared operable for full power operation. Additional emergency actions have been proposed by the licensee to justify continued operation of Oconee Units 1 and 2 for the interim period until the fouling can be corrected as discussed below.

The Reactor Building Cooling Units (RBCU) provide the design heat removal capacity following a loss-of-coolant accident (LOCA) with all three coolers operating continuously and circulating the steam-air mixture past the cooling tubes to transfer heat from the containment atmosphere to the LPSW which is passed through the cooler tubes. The LPI system in the recirculation mode cools the water from the reactor building sump. Long term cooling is by recirculation of injected water from the reactor building sump to the core by the LPI pumps. Heat is transferred through the LPI coolers to the LPSW system.

By letter telecopied on April 6, 1987 the licensee committed to establish new interim maximum allowable power levels and change the reactor protection system (RPS) high flux trip setpoints for Oconee Units 1 and 2 and to specify operability for the third non-engineered safeguards LPI pump for Units 1 and 2.

On April 3, 1987 verbal authorization was granted by the Office of Nuclear Reactor Regulation (NRR) for the licensee to continue operation. This authorization was granted only after a discussion and review of the facts as presented by the licensee in a telephone conference call with the NRC and by followup telecopy dated April 6, 1987 April 6 and 7 1987 letters supplemented the original letter. The initial waiver of compliance would have expired at midnight on April 8, 1987 On the evening of April 8, 1987 it was extended to Friday, April 10, 1987 at 5:00 p.m.

III

The licensee provided a conservative calculation which compared the LOCA heat removal requirements with the current degraded heat exchanger capacity in order to ensure that the post-LOCA equipment qualification temperature limits will not be exceeded and required decay heat removal requirements can be satisfied. The calculation indicated that a scram from the above indicated power levels for Oconee Units 1 and 2, respectively, will produce decay heat levels within the heat exchanger capabilities. Actual heat transfer and flow rates through the degraded heat exchangers have been confirmed by testing. The licensee has committed to reduce the RPS high flux trip setpoint to 91.5% and 81.7% of rated power for Units 1 and 2, repectively, in order to ensure that these power levels are not exceeded in the interim until the heat exchanger fouling can be corrected. The staff has reviewed the licensee's heat transfer calculational method and assumptions and reviewed the overpower trip setpoint and concurs that adequate accident heat removal requirements will be maintained with the current degraded heat exchangers.

The licensee has also explained why the fouling problem will not accelerate over the next six months and further degrade the coolers' performance. The licensee stated that the turbidity levels in the lake water are very low, and the fouling has only recently been noted with more than ten years of plant operation without cleaning the LPI and RBCU coolers. We have reviewed the information and concur that accelerated degradation during the interim period is unlikely. Also, increased flow through the LPI coolers will not diminish flow to these other coolers.

In addition, the licensee has committed to ensure that adequate LPI cooling is provided in the interim by requiring the nonessential LPI pumps in both Units 1 and 2 to be operable. In the case of Unit 2, when operating at 81.7% an upper limit of 55°F has been placed on the lake water temperature to ensure acceptable heat removal capability. Lake water temperature will be monitored daily for Unit 2 to verify compliance with the above limit. The licensee has also proposed weekly monitoring of lake water temperature for Unit 1 to assure that the design basis of 75°F is not exceeded. The staff finds the above commitments and surveillance to be conservative and acceptable for assuring heat transfer capability.

The licensee has committed not to operate Unit 2 with degraded coolers beyond midnight April 22, 1987 After that time, all LPI and RBCU coolers will have been cleaned and tested to verify that they are in an operable condition intended for full power plant operation.

The licensee will operate Unit 1 at reduced power until the end of Cycle 10 outage currently scheduled to begin August 29, 1987 Although the Unit 1 LPI coolers will be cleaned to later than April 30, 1987 they will not be tested and evaluated for full power operation until the Cycle 10 outage. Until that time, the licensee indicated that because of both the additional margin provided by cleaning the Unit 1 LPI cooler and because the fouling occurs slowly over an extended time period, these items will ensure adequate heat removal capability at the reduced power levels from the period of April 30 to August 29, 1987 The staff concurs with the licensee's assessment.

The licensee has also evaluated other safety-related coolers serviced by the LPSW system. In addition to the LPI and RBCU coolers, the LPSW cools the high pressure injection pump motor bearing coolers, the motor driven emergency feedwater pump motor air coolers and the turbine driven emergency feedwater pump turbine bearing oil coolers. The licensee has discussed the testing program for these coolers which confirmed acceptable flow rates through them and believes that a similar fouling problem does not exist. We concur with the licensee's conclusion.

I find the licensee's commitments acceptable and conlude that the plant's safety can be maintained in the interim until the fouling can be corrected and the units returned to full power. In view of the foregoing, I have determined that these commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

IV

Accordingly, pursuant to Sections 103, 161b, and 161i, of the Atomic Energy Act of 1954, as amended and the Commission's regulations in 10 CFR 2.204 and Part 50, it is hereby ordered, effective immediately, that licenses DPR–38, DPR–47 and DPR–55 are amended as follows:

A. Oconee Unit 1, License No. DPR–38

1. Until the 1A LPI cooler is cleaned, tested, evaluated for full power

operation, and approved for full power operation by the Regional Administrator, Region II, Oconee Unit 1 operation will be at reduced power levels and will have a reduced RPS high flux trip setpoint to ensure that adequate shutdown removal can be provided under accident conditions, as follows:

a. the RPS high flux trip setpoint shall be 91.5% rated power;

b. the maximum allowable power level shall be 91.5% rated power; and

c. in addition to the requirements of Technical Specification 3.3.2, the remaining non-ES LPI pump, capable of taking suction from the reactor building emergency sump and discharging into the RCS, shall be operable. The remaining non-ES LPI pump may be inoperable for a period of 24 hours. If the non-ES LPI pump is not restored to operable status within 24 hours, the reactor shall be placed in a hot shutdown condition within an additional 12 hours. If the requirements of 3.3.8(b) are not met within 24 hours following hot shutdown, the reactor shall be placed in a condition with RCS pressure below 350 psig and RCS temperature below 250° F within an additional 24 hours.

2. Oconee Unit 1 shall not operate at any power level after the end of Cycle 10 unless the Regional Administrator, Region II, has approved the 1A LPI cooler for full power operation.

B. Oconee Unit 2, License No. DPR-47

1. Until the 2A LPI cooler is cleaned, tested, evaluated for full power operation, and approved for full power operation by the Regional Administrator, Region II, Oconee Unit 2 operation will be at reduced power levels and will have a reduced RPS high flux trip setpoint to ensure that adequate shutdown heat removal can be provided under accident conditions, as follows:

a. the RPS high flux trip setpoint shall be 81.7% rated power;

b. if lake water temperature is equal to or less than 55° F the maximum allowable power level shall be 81.7% rated power; if the lake water temperature exceeds 55° F Unit 2 shall proceed to shutdown in accordance with Technical Specification 3.0;

c. in addition to the requirement of Technical Specification 3.3.2, the remaining non-ES LPI pump, capable of taking suction from the reactor building emergency sump and discharging into the RCS, shall be operable. The remaining non-ES LPI pump may be inoperable for a period of 24 hours. If the non-ES LPI pump is not restored to operable status within 24 hours, the reactor shall be placed in a hot shutdown condition within an additional 12 hours. If the requirements of 3.3.9(c) are not met within 24 hours following hot shutdown, the reactor shall be placed in a condition with RCS pressure below 350 psig and RCS temperature below 250° F within an additional 24 hours.

2. Oconee Unit 2 shall not operate at any power level after midnight of April 22, 1987 unless the Regional Administrator, Region II has approved the 2A LPI cooler for full power operation.

C. Oconee Unit 3, License No. DPR-55

Oconee Unit 3 shall remain shutdown until the 3A and 3B LPI coolers are approved for full power operation by the Regional Administrator, of Region II.

The Regional Administrator, Region II, may relax or rescind any of the above conditions upon a showing by the licensee of good cause.

V

The licensee or any other person who has an interest adversely affected by this Order may request a hearing on this Order within 20 days of the date of issuance. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC, 20555. A copy shall be sent to the Office of the General Counsel, Assistant General Counsel for Enforcement, at the same address, and the Regional Administrator, Region II at 101 Marietta Street, NW., Suite 2900, Atlanta, Georgia 30303. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 10th day of April, 1987.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Director, Division of PWR Licensing-B.

[FR Doc. 87-9040 Filed 4-21-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275-OLA and 50-323-OLA; ASLBP No. 86-523-03-LA]

Pacific Gas and Electric Co., Diablo Canyon Nuclear Power Plant, Units 1 and 2; Hearing

April 15, 1987.

A. Hearing

Before Administrative Judges: B. Paul Cotter, Jr., Chairman; Glenn O. Bright, Dr. Jerry Harbour.

Please take notice that an evidentiary hearing in the captioned proceeding will commence in the Bay View Room of the San Luis Bay Inn, Avila Beach, California, at 9:00 A.M. on Tuesday, June 16, and continue from day to day until completed. The hearing will be held pursuant to the Atomic Energy Act, as amended, 42 U.S.C. 2011, *et seq.*

B. Limited Appearance Statements

Also please notice that limited appearance statements will be held from 3:00-6:00 P.M. at the same location on Monday, June 15, 1987

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene may request in writing permission to make a limited appearance statement pursuant to the provisions of 10 CFR 2.715 of the Commission's Rules of Practice. A member of the public does not have a right to participate; limited appearance statements will be heard only at the discretion of the Board, at a time designated in order not to interfere with the taking of evidence in the formal hearing. Forms for requesting permission to present such statements will be available. Individual presentations must be germane to the issues under consideration by the Board, and may be no more than five minutes in length.

Written limited appearance statements may be submitted to the Board at any time prior to the closing of the record in this proceeding. Such statements may be of any length, and may be delivered to the Board at the hearing site, or mailed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Docketing and Service Division, Washington, DC 20555. Both oral and written statements will be made a part of the official record of this proceeding.

For the Atomic Safety and Licensing Board.

B. Paul Cotter, Jr.,

Chairman, Administrative Judge.

[FR Doc. 87-9086 Filed 4-21-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-483]

Union Electric Co., Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. NPF-30 issued to Union Electric Company (the licensee) for operation of the Callaway Plant, located in Callaway County, Missouri.

The amendment would authorize on an expeditious basis a revision to Table 3.3-5 of the technical specifications (TS) to increase the Engineered Safety Features (ESF) response times by fifteen seconds for Items: 2.a. (Containment Pressure-High-1, Safety Injection); 3.a. (Pressurizer-Low, Safety Injection); and 4.a. (Steam Line Pressure-Low, Safety Injection). The need for the amendment arose as the licensee was made aware of a misinterpretation of the surveillance requirements in TS Table 3.3-5. Although all equipment had been determined to be operational as required, the timing of equipment operation to meet response time requirements was misinterpreted. The licensee has evaluated the current steam line break analysis for the Callaway Plant and determined that the increase in the above mentioned ESF response times is acceptable. These revisions to the technical specifications would be made in response to the licensee's application for amendment dated April 16, 1987

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed amendment does not involve a significant increase in the probability or consequences of accidents previously evaluated. An increase in the acceptable criterion for the ESF response time is acceptable since the evaluation of the impact of the increased delay on the steam line break event demonstrated that the departure from nucleate boiling design basis is still met.

The licensee has determined that the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated. There are no new failure modes associated with this proposed change, as no design changes have been made. No new accident is created because the same equipment is assumed to perform in the same manner as before. Therefore, an increase in the ESP response times for high containment pressure, low pressurizer pressure, and low steam line pressure does not create the possibility of an accident or malfunction of a different type than any evaluated previously in the safety analysis report.

The licensee has determined that the proposed amendment does not involve a significant reduction in a margin of safety. There is no impact on the consequences on protective boundaries, and all acceptance criteria in the analysis of record are still met. Therefore, the safety limits will still be met.

The Commission has reviewed the licensee's significant hazards consideration determination and agrees with the licensee's analysis. Therefore, operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in extending shutdown because under the current TS, the licensee cannot meet certain ESF response times in Table 3.3-5. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

Normally, the Commission will not issue the amendment until the expiration of the notice period. However, should circumstances change during the notice period, the Commission may issue the license amendment before the expiration of the notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

If the proposed determination becomes final, an opportunity for a hearing will be published in the **Federal Register** at a later date and any hearing request will not delay the effective date of the amendment.

If the Commission decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the **Federal Register** and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significnt hazards consideration. Comments on the proposed determination may be telephoned to D. L. Wigginton, Acting Director of Project Directorate III-3, by collect call to 301-492-8005 or submitted in writing to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and should cite the publication date and page number of this **Federal Register** notice. All comments received by May 7, 1987 will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Dated at Bethesda, Maryland, this 17th day of April, 1987.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Project Directorate III-3, Division of Reactor Projects.

[FR Doc. 87-9039 Filed 4-21-87; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of RI 30–1 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C., Chapter 35), this notice announces a request to extend a public information collection. Form RI 30–1, Request to Disability Annuitant for Information on Physical Condition and Employment, is completed by Civil Service Retirement System disability annuitants (under age 60) to annually provide employment and medical documentation verifying their continued disability. A statement from the annuitant's physician must accompany this form. There are 8,000 individuals who respond annually for a total public burden of 8,000 hours. For copies of this proposal call William C. Duffy, Agency Clearance Officer, on (202) 632–7714.

DATES: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415

and

Richard Eisinger, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3201, New Executive Office Building, NW., Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632–5472.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 87–8977 Filed 4–21–87; 8:45 am]

BILLING CODE 6325–01–M

Request for Extension of RI 25–15 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C., Chapter 35), this notice announces a request to extend an information collection from the public. RI 25–15, Survey of Student's Eligibility to Receive Benefits, is used within the Civil Service Retirement System to determine continuing eligibility of unmarried dependent children between 18 and 22 years of age to receive survivor annuity benefits provided they are students. It annually collects information regarding marital status, current full-time school attendance and future plans for full-time school attendance. There are 20,000 students who respond annually for a total public burden of 1,666 hours. For copies of this proposal call William C. Duffy, Agency Clearance Officer, on (202) 632–7714.

DATES: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room 6410, Washington, DC 20415

and

Richard Eisinger, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3201, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632–5472.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 87–8978 Filed 4–21–87; 8:45 am]

BILLING CODE 6325–01–M

Request to Revise SF 2803 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S.C., chapter 35), this notice announces a revised public information collection which was submitted to the Office of Management and Budget for clearance. SF 2803, Application to Make Deposit or Redeposit, is completed by Federal employees and Members to make application for deposit or redeposit to the Civil Service Retirement and Disability Trust Fund. There are 4,000 individuals who apply annually for a total public burden of 1,000 hours. For copies of this proposal call William C. Duffy, Agency Clearance Officer, on (202) 632–7714.

DATE: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415

and

Richard Eisinger, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3201, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632–5472.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 87–8979 Filed 4–22–87; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Forms Under Review of Office of Management and Budget

Agency Clearance Office: Kenneth A. Fogash, (202) 272–2142

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549

Extension

Rule 17a–5 and Form X–17A–5

File No. 270–242

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17a–5 and Form X–17A–5 (17 CFR 240.17a–5 and 17 CFR 249.617) which prescribes periodic financial reports by broker and dealers.

The potential affected persons are approximately 8800 registered broker-dealers for an estimated twelve hours each.

Submit comments to OMB Desk Officer: Mr. Robert Neal, (202) 395–7340, Office of Information and Regulatory Affairs, Room 3228 NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

April 17, 1987

[FR Doc. 87–9052 Filed 4–21–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34-24354; File No. SR-PSE-87-06]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Issuance of Rights to Purchase Special Memberships

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 27 1987 the Pacific Stock Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange's Board of Governors ("Board") has authorized subject to membership approval, the issuance to seat owners of rights to purchase special memberships. These special memberships would permit the holder to trade only the Financial News Composite Index ("FNCI"), the PSE High Technology Index ("PSE") and such other new products as may be determined by the Board. The Exchange also is proposing a new section 13 of Rule IX, to outline the privileges, duties, obligations and limitations of holders of special options memberships.

The proposed offering regarding special memberships is being done pursuant to the procedures set forth in Article V Section 1 of the Exchange's Constitution, as amended in 1983. Pursuant to Section 1, the sale or lease of additional memberships by the Exchange beyond the 516 authorized must be approved in writing by a majority of the Exchange members. Accordingly, the proposed rights offering will not be implemented unless a minimum of 259 votes are cast in favor of the offering.

On March 24, 1987 the Exchange sent to membership owners of record proxy material regarding the rights offering. If approved, this proposal would provide for the creation of a maximum of 25 special memberships. The results of the proxy vote will be known on April 23, 1987 unless a decisive number of votes is received at an earlier time.

Rights Offering for Special Memberships

A. The special non-voting membership created by these rights would allow the holder to trade only in options overlying the FNCI, the PSE and such other new products as the Board may determine to include in the special membership.

B. The special memberships created by these rights will expire on December 29, 1989, unless extended by the Board.

C. The memberships will be transferable through the facilities of the Exchange for a $100 transfer fee, and may be leased or transferred under established procedures with a $100 fee.

D. The memberships will have *no right to vote* in any election or amendment to the Constitution.

E. One right will be issued to each membership owner of record as of April 24, 1987

F Twenty such rights will be required for the purchase of this special membership.

G. Since there are 516 memberships outstanding, the Exchange will purchase 16 rights at the opening of trading of the rights, or shortly thereafter. This will leave 500 rights outstanding. Based on the requirement of 20 rights for the purchase of this special membership, the rights provide the potential for the creation of 25 such special memberships. (The Exchange will retire the 16 rights purchased unless it becomes necessary to resell these at the end of the rights period to permit someone with almost 20 rights to exercise).

H. The exercise price for the purchase of this special membership (with 20 rights) will be $500.

I. The rights will expire if not exercised by 2:00 p.m. (Pacific Time) on December 31, 1987

J. When exercised, the special membership will be subject to regular Exchange dues and other charges incurred, but will not be subject to the special membership fee due to expire December 31, 1987

K. Purchasers of rights need not qualify as members of the Exchange (although rights may be exercised only by persons duly approved fur such special membership in the Exchange).

Constitutional Amendment

If the proposal to create 25 special memberships is approved, implementation of the offering will require the amendment of Article V to reflect the number of special memberships created exclusively by exercise of the special membership of rights.

This amendment will take place after the rights expire on December 31, 1987 unless the maximum number of seats is created by the exercise of rights at an earlier date. The Exchange will consider the membership's approval of this rights offering as the authorization required under Article V to amend Section 1 to reflect the number of special memberships created by the offering.

Proxy Voting Procedures

Proxy forms for the membership vote on the two rights offerings and Constitutional amendment were sent to all voting members by registered mail on March 24, 1987 To be counted, the proxies must be *received* at the Exchange by 2:00 p.m. (PDT) on April 22, 1987

Results of Vote

Results from the proxy vote will be mailed to all seat owners on April 23, 1987 and posted on all of the trading floors. Results also may be obtained by telephone after 1:00 p.m. (PDT) on April 23, 1987

The Transfer Process for Special Rights

A. Members desiring to sell (or buy) their right(s) may do so only through the facilities of the Exchange.

B. A person desiring to sell his right(s) shall file with the Exchange a formal offering thereof stating the net price acceptable, and must deposit with the Exchange the warrant(s) evidencing such rights. Any purported sale effected as a result of any offer other than through the facilities of the Exchange will be absolutely void and will confer no rights upon the purchaser.

C. A formal bid stating the net price to be paid shall be filed by the prospective purchaser with the Exchange. Prospective purchasers must deposit a check made out to the Pacific Stock Exchange for $500 or for the price of the bid, whichever is less, for each right bid for. When a bid is executed, the Exchange will immediately notify the prospective purchaser, who will have five business days from the date of such execution to submit a cashier's check or certified check, made out to the Pacific Stock Exchange for the balance of the bid, if any. If such check is not received by 4:00 p.m. (Pacific Time) of the fifth business day, the execution will be considered void, and $500 or the price of the bid, whichever is less, will be given to the seller(s) involved in such execution.

D. All bids and offers must be in increments of $50. Bids or offers at the same price will be given priority based on time or receipt by the Exchange.

E. All bids and offers must be made at the Surveillance/Compliance Departments, 233 South Beaudry, 12th floor, in Los Angeles or Membership Services, 155 Sansome Street, second floor, San Francisco. The prices of all bids and offers (not just the best bid and offer) will be posted in such places.

F The Exchange and its officers, members and employees shall not be subject to any liability in connection with any bid for or offer of a right or in connection with the handling or processing of bids, offers or transactions.

G. The sale of a regular or special right shall be deemed arranged at the time the formal bid and offer are matched in price and confirmed by the Exchange.

H. The acquisition of rights pursuant to the above process, or in any other way, shall create no presumption that the purchaser is entitled to qualify for membership. Rights may be exercised and memberships purchased, only by persons who qualify for membership or special membership under normal qualification procedures. Upon exercise of regular rights, the normal Exchange transfer fee will be applicable.

Ownership of Memberships

Where memberships are subject to lease agreements in standard Exchange form, the Board has determined that the actual membership owner, or "backer," is the person properly entitled to receive, and to sell (or exercise) the rights, because the attributes of the rights relate primarily to membership value fluctuations and not to actual use of membership privileges. However, where memberships are subject to private provisions or agreements, the parties must determine between themselves who is properly entitled to receive and deal in the rights. In any case, the Exchange will act only on instructions of membership owners in good standing.

Under Exchange Rule IX, section 3(b) the purchaser of a seat has ten calendar days after a sale is arranged to consummate the transaction (by submitting full payment to the Exchange). This rule will remain in effect throughout the time period of the rights offerings. All purchasers and sellers are on notice that only holders of record of Exchange seats on *April 24,* will receive the newly-issued rights, if the Board proposal is approved. To be a holder of record on April 24, a purchaser must consummate the trade on or before April 24.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The Exchange's proposal to create special memberships arises from a desire to provide additional liquidity and facilitate transactions in index options. The Exchange believes that the special limited memberships will be less expensive than a full membership (which carries wider trading privileges and voting rights). By offering less expensive special memberships, the Exchange's goal is to attract additional capital exclusively for its listed index options.

The purpose for the new section 13 of Rule IX is to make clear the privileges, duties and obligations assigned to the newly-created special memberships. In addition, section 13 described the limitations of membership rights on the new class.

Special members will be permitted to trade on the options floor as Market Makers or Floor Brokers only in options on FNCI, PSE and such other products as the Board may determine to include, but can not trade as principal and agent for the same options class on the same day. Despite being designated as special members, such persons still will be required to adhere to the Exchange's trading and disciplinary rules. The Exhange believes that index options are sufficiently different from equity options to have a separate class of traders performing principal and agency functions in these products. However, because the value of a special membership is less than a regular membership, fees associated with the purchase or transfer are set at the lesser sum of $100.

In creating these special memberships, the Exchange specifically intended to withhold voting rights. Accordingly, special members will not be entitled to enjoy the privileges set forth in Article III, sections 1(c) and 2(b), and Article V sections 2 and 3. Although special membership will confer only limited trading rights, special members still will be subject to trading rules, just as regular members would, during the course of their trading activity.

The proposed rule change is consistent with section 6(b)(5) of the Securities Exchange Act of 1934, in that the creation of such special memberships will remove or limit the impediments to a free and open market, and promote just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition but will, instead, have a favorable impact on competition by increasing the number of members participating in the Exchange's auction market.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule Change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file

number in the caption above and should be submitted by May 13, 1987

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: April 16, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-9053 Filed 4-21-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24352; File No. SR-PHLX-87-01]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc, Relating to European Exercise for Value Line Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 23, 1987 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX"), pursuant to Rule 19b-4, hereby proposes the following rule change: (Brackets indicate deletions; italics indicates additions.)

Rule 1000A. Applicability and Definitions

(a) No change. (b) (1-11) No change.

(b)(12) The term "European option" means an option contract that can be exercised only on the last trading day prior to the day it expires.

Rule 1006A. Other Restrictions on Options Transactions and Exercises

With respect to index options, restrictions on exercise may be in effect until the opening of business on the last trading day before the expiration date. *With respect to Value Line index European option contracts, restrictions on exercise will be in effect until the last trading day prior to expiration.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to allow the PHLX to offer European style option contracts on the Value Line index. The PHLX presently trades American style options on the Value Line index (XVL) and would differentiate the proposed Value Line index European options by using the symbol VLE to identify the "current index value" The Value Line index is broad-based, encompassing approximately 1,700 exchange-listed and over-the-counter securities, and is an equally weighted geometric average of their prices. The PHLX believes that a European exercise feature respecting Value Line index options would particularly appeal to potential Value Line index options sellers and spread traders, since it restricts exercise until the trading day prior to expiration. Except for the proposed restriction on early exercise, trading in the Value Line index European options would be conducted in accordance with existing PHLX equity option and index option rules.

The proposed rule change is consistent with Section 6(b)(5) of the Securities and Exchange Act of 1934 in that it will facilitate transactions in securities and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solcited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concening the foregoing. Person making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 13, 1987

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 16, 1987

Jonathan G. Katz,

Secretary.

[FR Doc. 87-9054 Filed 4-21-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24374]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 16, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are

available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 11, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Columbus and Southern Ohio Electric Company (70-7384)

Columbus and Southern Ohio Electric Company ("C&SOE"), 215 N. Front Street, Columbus, Ohio, a wholly owned subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed a declaration pursuant to section 12(d) of the Act and Rule 44 thereunder.

C&SOE proposes to sell to Buckeye Steel Castings Company ("Buckeye"), a C&SOE industrial electricity customer, a portion of its Buckeye Substation No. 82, located upon real estate owned by Buckeye in Columbus, Ohio, that consists of transformation and other related equipment, for a total price of $640,000, which includes all expenses to be incurred by C&SOE in the sale. The equipment will be separated from the remaining substation equipment owned by C&SOE which is used to serve other customers. In connection with the sale, the equipment will be released from the lien of C&SOE's indenture of mortgage and deed of trust.

C&SOE also proposes to lease to Buckeye certain additional equipment at Buckeye Substation No. 82, referred to as "leased breakers." The lease agreement provides for a one year renewable term, monthly cash rental payments of $5,150.00, and annual revision of rental charges by C&SOE. None of the rental payments shall be applied to reduce the purchase price of the transformer equipment or to reduce the cost of electric service provided to Buckeye.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-9055 Filed 4-21-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-0226]

First Tampa Capital Corp.; Surrender of License

Notice is hereby given that First Tampa Capital Corporation (FTCC), 6200 Courtney Campbell Causeway, Tampa, Florida, has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). FTCC was licensed by the Small Business Administration on January 18, 1984. Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on April 10, 1987 and accordingly, all rights, privileges, and franchises therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: April 15, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-9081 Filed 4-21-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Public Meeting Regarding Rulemaking, Research and Enforcement Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs.

DATES: The agency's regular, quarterly public meeting relating to the agency's rulemaking, research, and enforcement programs will be held on May 22, 1987 beginning at 10:30 a.m. Questions relating to the agency's rulemaking, research, and enforcement programs, must be submitted in writing by May 12, 1987 If sufficient time is available, questions received after the May 12 date may be answered at the meeting. The individual, group or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by May 12, and the issues to be discussed will be mailed to interested persons on May 19, 1987 and will be available at the meeting.

ADDRESS: Questions for the May 22 meeting relating to the agency's rulemaking, research, and enforcement programs should be submitted to Barry Felrice, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, DC 20590. The public meeting will be held in Room 2230, Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: NHTSA will hold its regular, quarterly meeting to answer questions from the public and industry regarding the agency's rulemaking, research, and enforcement programs on May 22, 1987 The meeting will begin at 10:30 a.m., and will be held in Room 2230, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. The purpose of the meeting is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street SW., Washington, DC 20590.

Issued on April 17, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-9072 Filed 4-21-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: April 16, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511 Copies of the

submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0205
Form Number: 5452
Type of Review: Revision
Title: Corporate Report of Nontaxable Dividends
Description: Form 5452 is used by corporations to report their nontaxable distributions as required by Internal Revenue Code section 6042(d)(2). The information is used by IRS to verify that the distributions are nontaxable as claimed.
Respondents: Farms, Businesses
Estimated Burden: 1,190 hours

OMB Number: 1545–0200
Form Number: 5307
Type of Review: Extension
Title: Short Form Application for Determination for Employee Benefit Plan (Other than Collectively Bargained Plans)
Description: This form is filed by employers or plan administrators who have adopted a master or prototype plan approved by the IRS National Office or a field prototype plan approved by an IRS District Director to obtain a ruling that the plan adopted is qualified under Internal Revenue Code sections 401(a) and 501(a) and ERISA (Pub. L. 93–406). It may not be used to request a ruling for collectively bargained plans.
Respondents: Businesses
Estimated Burden: 90,418 hours

OMB Number: 1545–0441
Form Number: 6559
Type of Review: Extension
Title: Transmitter Report of Magnetic Media Filing
Description: Form 6559 is needed to identify the transmitters of wage and/or pension information who file on magnetic media. The Social Security Administration (SSA) uses the information to secure the transmitters signature attesting to the accuracy of the information transmitted.
Respondents: State of local governments, Farms, Businesses, Federal agencies or employees, Non-profit institutions
Estimated Burden: 16,700 hours

OMB Number: 1545–0390
Form Number: 5306
Type of Review: Extension
Title: Application for Approval of Prototype or Employer Sponsored Individual Retirement Account
Description: This application is used by employers who want to establish an individual retirement account trust to be used by their employees. The application is also used by persons who want to establish approved prototype individual retirement accounts or annuities. The data collected is used to determine if plans may be approved.
Respondents: Businesses
Estimated Burden: 1,273 hours

OMB Number: 1545–0213
Form Number: 5578
Type of Review: Extension
Title: Annual Certification of Racial Nondiscrimination for a Private School Exempt from Federal Income Tax
Description: Form 5578 is used by private schools that do not file form 990, Schedule A, to certify that they have a racially nondiscriminatory policy toward students, as outlined in Revenue Procedure 75–50. The Service uses the information to help ensure that the school is maintaining a nondiscriminatory policy, in keeping with its exempt status.
Respondents: Non-profit institutions
Estimated Burden: 736 hours

Clearance Officer: Garrick Shear (202) 566–6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,
Departmental Reports Management Officer.
[FR Doc. 87–9028 Filed 4–21–87; 8:45 am]
BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27 1985 (50 FR 27393, July 2, 1985), I hereby determine that the Greek marble stele to be included in the exhibit, "Passport to the World" imported from abroad for the temporary exhibition without profit within the United States is of cultural significance. This object is imported pursuant to a loan agreement with the Greek Ministry of Culture. I also determine that the temporary exhibition or display of the Greek marble stele at the University Museum of the University of Pennsylvania beginning on or about May 6, 1987 to on or about December 15, 1987 is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: April 17, 1987.

C. Normand Poirier,
Acting General Counsel.
[FR Doc. 87–9088 Filed 4–21–87; 8:45 am]
BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 77
Wednesday, April 22, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: April 13, 1987 52 FR 11911.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 15, 1987 10:00 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No. and Company

RP-8
RP86-110-001, Texas Eastern Transmission Corporation
RP86-93-000, United Gas Pipe Line Company
RP85-175-000, Transwestern Pipeline Company
CP86-585-000, Panhandle Eastern Pipe Line Company
CP86-586-000, Trunkline Gas Company
CP86-521-000, Texas Gas Transmission Company
CP86-578-000, Northwest Pipeline Corporation
RP86-105-000, ANR Pipeline Company
CP86-589-000 and RP86-104-000, Colorado Interstate Gas Company
RP85-169-000 and CP86-311-000, Consolidated Gas Transmission Company
RP86-155-000, Northwest Central Pipeline Corporation
RP86-97-003, Natural Gas Pipeline Company of America
RP85-206-000, Northern Natural Gas Company
TA85-3-29-000, TA85-1-29-000, TA86-1-29-000,
TA86-1-29-002, TA86-5-29-000, RP83-137-000 and CP85-190-000, Transcontinental Gas Pipe Line Corporation
RP86-134-000, MIGC, Inc.

Lois D. Cashell,
Acting Secretary.
[FR Doc. 87-9057 Filed 4-17-87; 4:31 pm]
BILLING CODE 6717-02-M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, May 6, 1987

PLACE: Board Hearing Room 8th Floor, 1425 K. Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of April, 1987.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles R. Barnes, Executive Director, Tel: (202) 523-5920.

DATE OF NOTICE: April 15, 1987

Charles R. Barnes,
Executive Director, National Mediation Board.
[FR Doc. 87-9109 Filed 4-20-87; 10:43 am]
BILLING CODE 7550-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:00 a.m., Tuesday, April 28, 1987

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The items will be open to the public.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report:* Rear-End Collision of Boston Maine Corp. Commuter Train No. 5324 with Consolidated Rail Corp. Train TV-14, at Brighton, Massachusetts, May 7, 1986.
2. *Marine Accident Report:* Fire and Explosion on Board the Panamanian Passenger Ship EMERALD SEAS in the Atlantic Ocean Near Little Stirrup Cay, Bahamas, July 30, 1986.

FOR MORE INFORMATION CONTACT: Ray Smith, (202) 382-6525.

Ray Smith,
Federal Register Liaison Officer.
April 17, 1987.
[FR Doc. 87-9091 Filed 4-20-87; 9:02 am]
BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 20, 27 May 4, and 11, 1987

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of April 20

Thursday, April 23

4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Revision to NRC Policy Statement, "Guidelines for NRC Review of Agreement State Radiation Control Programs" (Tentative) (*Postponed* from April 16)

Week of April 27—Tentative

Thursday, April 30

2:00 p.m.
Briefing on Advanced Boiling Water Reactor Review (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 4—Tentative

Wednesday, May 6

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, May 7

2:00 p.m.
Briefing on State of the Nuclear Industry (Public Meeting)
4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 11—Tentative

Wednesday, May 13

10:00 a.m.
Briefing on NRC/DOE Comparability Study (Closed—Ex. 1)
2:00 p.m.
Periodic Briefing by INPO (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6) was held on April 14. Affirmation of "Exemptions from 18 USC (208(a) (Financial Interest Posing Conflict of Interest) for NRC Employees" (Public Meeting) was held on April 16.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634-1410.

Robert B. McOsker,
Office of the Secretary.
April 16, 1987

[FR Doc. 87-9085 Filed 4-20-87; 8:52 am]
BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 52, No. 77
Wednesday, April 22, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 61225-7052]

Groundfish of the Bering Sea and Aleutian Islands

Correction

In rule document 87-5972 beginning on page 8592 in the issue of Thursday, March 19, 1987 make the following correction:

§ 675.20 [Corrected]

On page 8601, in the first column, in § 675.20(e)(3), in the third line, "paragraph (3)(1)(i) or (ii)" should read "paragraph (e)(1)(i) or (ii)"

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 280

[FRL-3154-7]

Underground Storage Tanks Containing Petroleum; Financial Responsibility Requirements

Correction

In proposed rule document 87-7631 beginning on page 12786 in the issue of Friday, April 17 1987 make the following correction:

On page 12786, in the second column, under **DATES**, in the second line, the comment deadline should read "June 16, 1987"

BILLING CODE 1505-01-D

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1260

[NASA Grant and Cooperative Agreement Handbook Instruction 84-3]

Miscellaneous Changes to the NASA Grant and Cooperative Handbook

Correction

In rule document 87-8513 beginning on page 12378 in the issue of Thursday April 16, 1987 make the following correction:

On page 12378, in the third column, in amendatory instruction 6., in the second line, "paragraph (c)" should read "paragraph (e).

BILLING CODE 1505-01-D

federal register

Wednesday
April 22, 1987

Part II

Environmental Protection Agency

40 CFR Parts 300 and 355
Extremely Hazardous Substances List and Threshold Planning Quantities; Emergency Planning and Release Notification Requirements; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 300 and 355

[FRL-3173-6]

Extremely Hazardous Substances List and Threshold Planning Quantities; Emergency Planning and Release Notification Requirements

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Section 302 of the Superfund Amendments and Reauthorization Act of 1986 (SARA), signed into law on October 17 1986, required the Administrator of EPA to publish a list of extremely hazardous substances within 30 days. The Administrator was also required to simultaneously publish an interim final regulation establishing a threshold planning quantity for each substance on the list and initiate a rulemaking to finalize these regulations. The list and planning quantities trigger emergency planning in States and local communities under SARA. On November 17 1986, EPA published an interim final rule codifying the statutorily prescribed list of extremely hazardous substances, the corresponding threshold planning quantities for those substances, and the local and State reporting requirements for facilities at which extremely hazardous substances or other "hazardous substances" are present. On November 17 EPA also proposed revisions to the list of extremely hazardous substances. Today's rulemaking revises the list of extremely hazardous substances, the threshold planning quantities, and the emergency planning and release reporting requirements based on public comments received on the interim final rule and proposed revisions.

EFFECTIVE DATES: This rule becomes effective on May 17 1987 for purposes of facility planning notification under section 302 and May 22, 1987 for purposes of emergency release notification under section 304. Other dates relevant to this rule include the following:

1. State emergency response commissions are to be established by April 17 1987
2. Facility notifications for emergency planning are required by May 17 1987
3. State commissions are to establish emergency planning districts by July 17 1987
4. State commissions are to establish local emergency planning committees by August 17 1987
5. Facility emergency release notifications to the local emergency planning committee begin on August 17 1987 or on the date on which the committee is formed if prior to that date.
6. Facility notifications to local committees concerning facility representatives are due by September 17 1987
7. Emergency response plans should be completed by the local emergency planning committees by October 17 1988.

ADDRESS: The record supporting this rulemaking is contained in the Superfund Docket located in Room Lower Garage at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The docket is available for inspection by appointment only between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday, excluding federal holidays. The docket phone number is (202) 382-3046. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Richard A. Horner, Chemical Engineer, Preparedness Staff, Office of Solid Waste and Emergency Response, WH-562A, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The Chemical Emergency Preparedness Hotline, at 1-800/535-0202, in Washington, DC at 1-202/479-2449 can also be contacted for further information.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Introduction

A. Statutory Authority

This regulation is issued under Title III of the Superfund Amendments and Reauthorization Act of 1986, (Pub. L. 99-499), ("SARA" or "the Act"). Title III of SARA is known as the Emergency Planning and Community Right-to-know Act of 1986.

B. Background

1. Superfund Amendments and Reauthorization Act of 1986 (SARA)

On October 17 1986, the President signed into law the Superfund Amendments and Reauthorization Act of 1986 ("SARA") which revises and extends the authorities established under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"). Commonly known as "Superfund," CERCLA provides authority for federal cleanup of uncontrolled hazardous waste sites and response to releases of hazardous substances. Title III of SARA establishes new authorities for emergency planning and preparedness, emergency release notification, community right-to-know reporting, and toxic chemical release reporting.

2. Title III

Title III of SARA, also known as the "Emergency Planning and Community Right-to-Know Act of 1986" is intended to encourage and support emergency planning efforts at the State and local levels and provide the public and local governments with information concerning potential chemical hazards present in their communities. The emergency planning requirements of this Act recognize the need to establish and maintain contingency plans for responding to chemical accidents which can inflict health and environmental damage as well as cause significant disruption within a community.

Title III is organized into three subtitles. Subtitle A, which establishes the framework for local emergency planning, will be described in more detail in the following section. Subtitle B provides the mechanism for community awareness with respect to hazardous chemicals present in the locality. This information is critical for effective local contingency planning. Subtitle B includes requirements for the submission of material safety data sheets and emergency and hazardous chemical inventory forms to State and local governments, and the submission

of toxic chemical release forms to the States and the Agency. Subtitle C contains general provisions concerning trade secret protection, enforcement, citizen suits, and public availability of information.

Today's rule revises the interim final rule, published on November 17 1986, (51 FR 41570), which set forth the basic elements for initiation of local emergency planning. The preamble to that rule described the Title III framework in more detail. Following is a summary of the statutory provisions directly related to today's final rule.

3. Emergency Planning and Notification Requirements Under Title III

Subtitle A of Title III is concerned primarily with emergency planning programs at the State and local levels. Section 301 requires each State to establish an emergency response commission by April 17 1987 The State commission is responsible for establishing emergency planning districts and appointing, supervising, and coordinating local emergency planning committees.

Section 303 governs the development of comprehensive emergency response plans by the local emergency planning committees and provision of facility information to the committee. The local emergency planning committee is responsible for completing an emergency plan meeting the requirements of section 303 by October 17 1988 and reviewing the plan at least annually. Under section 303(d), facilities subject to emergency planning must designate a facility representative who will participate in the local emergency planning effort as a facility emergency response coordinator. This designation must be made by September 17 1987 or 30 days after establishment of the local emergency planning committee, whichever is earlier. Section 303(d) also requires facilities to provide the committee with information relevant to development or implementation of the local emergency response plan.

Section 302 required the Administrator of EPA to publish a list of extremely hazardous substances and threshold planning quantities (TPQs) for such substances within 30 days of enactment of SARA. Any facility where an extremely hazardous substance is present in an amount in excess of the threshold planning quantity is required to notify the State commission by May 17 1987 or 60 days after the facility first begins handling an extremely hazardous substance in excess of its TPQ. Such notification should be in writing and specify the name and an accurate and current locational address of the facility. Other facilities may also be designated by the commission or the Governor. In turn, the State emergency response commission must notify EPA of such facilities. The Agency encourages State commissions to provide such notice by August 17 1987 to the EPA Regional Administrator for the standard Federal Region in which the State is located. The Agency requests that the notification provide a list of the covered facilities with their current and accurate locational addresses organized by emergency planning district, if practicable.

The list of extremely hazardous substances is defined in section 302(a)(2) as "the list of substances published in November, 1985 by the Administrator in Appendix A of the Chemical Emergency Preparedness Program Interim Guidance" This list was established by EPA to identify chemical substances which could cause serious irreversible health effects from accidental releases. Section 302(a)(3) further required EPA to initiate a rulemaking to revise the threshold planning quantities.

Section 304 establishes requirements for immediate reporting of certain releases of hazardous substances to the local planning committees and the State emergency response commissions, similar to the release reporting provisions under section 103 of CERCLA. Section 304 also requires follow-up reports on the release, its effects, and response actions taken. An interim final rule, published on November 17 1986 set forth the list of extremely hazardous substances, threshold planning quantities and reporting requirements. A companion rule requested comments on the interim final rule and proposed deletions from and additions to the list of extremely hazardous substances. Today's rule finalizes the list and associated planning requirements based on public comments.

4. Emergency Planning Program

After the enactment of Superfund (1980), it became apparent that emergency response, although vital to the protection of public health and the environment from accidental releases of hazardous substances, was not enough protection against the possibility of releases of extremely hazardous substances. For many chemicals, it is not sufficient merely to plan for cleanup of releases once they have occurred because of the hazard the releases pose to surrounding populations. Rather, it is important to facilitate emergency planning which can help prevent the accident and enable timely and effective emergency response in the event of a hazardus release. To aid in such planning, the Agency initiated the voluntary Chemical Emergency Preparedness Program (CEPP)—a part of the Agency's Air Toxics Strategy for addressing both continuing and accidental releases of toxic substances into the air environment. Under CEPP EPA developed the list of substances referred to in section 302(a) (now known as "extremely hazardous substances") and guidance materials to help local communities focus their planning efforts.

Title III of SARA mandates the type of program advocated by the Agency's CEPP It encourages State and local governments to establish the infrastructure needed to facilitate emergency planning and provides technical support to these programs. It also requires certain facilities to supply the information on substances present at the facility which is necessary for contingency planning.

The extremely hazardous substances list and its threshold planning quantities are intended to help communities focus on the substances and facilities of the most immediate concern for emergency planning and response. EPA strongly emphasizes, however, that while the list finalized today includes many of the chemicals which may pose an immediate hazard to a community upon release, it is not to be considered a list of all substances which are hazardous enough to require community emergency response planning. There are tens of thousands of compounds and mixtures in commerce in the United States, and in specific circumstances, many of them could be considered toxic or otherwise dangerous. The list published today represents only a first step towards development of an effective emergency response planning effort at the community level. Without a preliminary list of this kind, it would be very difficult for most communities to know where to begin identification of potential chemical hazards among the many chemicals present in any community.

Similarly, the threshold planning quantities are *not* absolute levels above which the extremely hazardous substances are dangerous and below which they pose no threat at all. Rather, the threshold planning quantities are intended to provide a "first cut" for community emergency response planners where these extremely hazardous substances are present. After identification of facilities at which extremely hazardous substances are present in quantities greater than the threshold planning quantities, the community will have the basis for

further analysis of the potential danger posed by these facilities. Also, they will be able to identify other facilities posing potential chemical risks to the community and develop contingency plans to protect the public from releases of hazardous chemicals. Sections 311 and 312 of Title III provide a mechanism through which a community will receive material safety data sheets and other information on extremely hazardous substances, as well as many other chemicals, from many facilities which handle them. A community can then assess and initiate planning activities, if desirable, for quantities below the threshold planning quantity and for other substances of concern to them. A proposed rule setting forth the requirements for reporting under sections 311 and 312 was published on January 27 1987 (51 FR 2836).

In addition to the assistance provided by the extremely hazardous substance list and the threshold planning quantities, community emergency response planners will be further aided by the National Response Team's *Hazardous Materials Emergency Planning Guide.* A separate notice of availability of this document was published in the **Federal Register** on March 17 1987 (52 FR 8360,61) as required under section 303(f) of Title III. The planning guide will be supplemented at a later date with Technical Guidance to assist local emergency planning committees in the technical evaluation of potential chemical hazards and the prioritization of sites. This technical document will provide more detailed guidance on identifying and assessing the hazards associated with the accidental release of hazardous substances on a site-specific basis. In addtion to the toxicity of the substance, such an assessment should address site-specific considerations such as the conditions of storage or use of the substance (e.g. whether under temperature or pressure), the physical properties of the substance (e.g. physical state (solid, liquid, gas), volatility, dispersability, reactivity), the location (e.g. distance to affected populations), and the quantity of the substance. The Technical Guidance will address such considerations to assist local planners in hazard indentification and analysis essential to effective emergency response planning.

Following is a summary of comments received by the Agency on the interim final rule, EPA's responses to major comments, and a description of revisions to the rule.

II. Summary of the Public Comments

A total of 81 letters was received on the interim final rule and proposed rule.

There were several comments on the emergency planning program infrastructure and notification requirements, especially requests for clarification of notification requirements and exemptions. In particular, clarifications were requested on federally permitted releases, continuous releases and the relationship of the Title III reporting requirements to CERCLA reporting requirements.

Other major comments focused on the criteria used to identify chemicals for inclusion in the list of extremely hazardous substances, the need for additional criteria to address chronic or acute non-lethal health effects and physical and chemical properties.

Many commenters suggested changes to the extremely hazardous substance list, primarily deletions of specific chemicals, and expressed support for proposed deletions to the list. Other commenters opposed the deletions on the basis that the criteria for deletion were too narrow. Several recommended deletions of non-reactive, non-powdered solids.

Other commenters questioned the methodology used in setting threshold planning quantities and/or suggested changes to the threshold planning quantities for specific chemicals. Another topic of concern was the percent mixture policy, with some commenters opposing it and others stating that it was not appropriate in all cases.

In addition, a major issue was the inconsistency between reportable quantities (RQs) and threshold planning quantities for a number of chemicals, particularly where the reportable quantities exceed threshold planning quantities.

Other comments included lack of funding for State and local programs, use of the metric system, protection of confidential business information, and the content of an emergency response plan.

III. Summary of Revisions to the Interim Final Rule

Several changes from the interim final rule should be noted. First, while the interim final rule was placed in Part 300 of Title 40 of the Code of Federal Regulation, the final rule has been placed in Part 355. Part 300 is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). In the interim final rule, the Agency announced its intention to evaluate the placement of Title III rules. After consideration, the Agency has decided to place all Title III regulations in Subpart 335 et seq. since some of Title III is not specifically germane to the NCP and the Agency believes that all Title III rules should reside in one place in the Code of Federal Regulations. For clarity, today's rule republishes the list of extremely hazardous substances and associated regulations in its entirety.

This section described the significant changes that have been made to the interim final rule, based upon public comments on that rule and on the proposed rule. The following summary is organized according to the sections of the rule.

Section 355.20 (formerly § 300.92)—Definitions

The definition of "Commission" was revised to indicate that the Governor of a State will be the State emergency response commission, if no commission is designated, for all commission responsibilities in addition to planning, such as receipt of emergency release notifications and community right-to-know information and processing requests from the public for information under section 324. This change was made to better accord with the statutory language and to clarify, in response to commenters' concern, the entity to be notified after April 17 1987 of a release under section 304 if no State commission has been established.

A definition of transportation-related release has been added in response to comments requesting clarification of the term.

Section 355.30 (formerly § 300.93)—Emergency Planning

In response to commenters who asked how the TPQ is to be calculated, EPA has added a definition of the phrase "amount of any extremely hazardous substance" to paragraph (a). Thus, to determine whether the facility has present an amount of an extremely hazardous substance which equals or exceeds the TPQ, the owner or operator must determine the total amount of an extremely hazardous substance present at any one time at a facility, regardless of location, number of containers or method of storage. Additionally, the amount of an extremely hazardous substance present in mixtures or solutions in excess of one (1) percent must be included in the determination.

Section 355.40 (formerly § 300.94)—Emergency Release Notification

In response to several comments with respect to the exemption for on-site releases, EPA has revised the

applicability of this section to parallel the statutory exemption. The phrase "results in exposure to persons solely within the boundaries of the facility" was substituted for "results in exposure to persons outside the boundaries of the facility" Thus, releases need not result in *actual* exposure to persons off-site in order to be subject to release reporting requirements.

Several commenters requested that "continuous" releases be added to the exemptions listed under applicability to the extent that such releases are exempt from reporting under CERCLA. EPA agrees, based on the language in section 304(a) which requires that releases reportable under that Section occur in a manner which would require notification under section 103(a) of CERCLA. EPA has added this exemption to paragraph (a) along with other similar exemptions from section 103(a) notification under CERCLA (e.g., pesticide product releases under section 103(e)). However, because "statistically significant increases" from a continuous release must be reported as an episodic release under section 103(a) of CERCLA, such releases must also be reported under section 304(a). This has also been clarified in today's rule.

EPA has also clarified the effective date for emergency release notifications. EPA agrees with commenters who argued that the reporting provisions should not come into effect on November 17 1986 as stated in the interim final rule, but rather when the entity to which reports must be made is established. Accordingly, section 304 notifications must be made to the Commission beginning May 22, 1987 since the State emergency response commission is to be already established by that date. After April 17 1987 the Governor becomes the Commission until a Commission is established and notifications should be made to him/her. Beginning August 17 1987 notifications should also be made to the local committees. If no local emergency planning committee is established by August 17 1987 local notifications must be made to the appropriate local emergency response personnel. In many cases, facilities will already be alerting relevant local officials, such as fire departments, to those releases.

As noted by a commenter, notification is to be made to the "community" emergency coordinator as stated in the statute rather than the "local" emergency coordinator as stated in the interim final rule.

In response to comments, the alternative reporting for CERCLA hazardous substances which are not extremely hazardous substances is clarified to note its expiration after April 30, 1988 and that the exception concerns the immediate notice, not the follow-up report. These changes better accord the exception with the statutory language. In addition, EPA responded to requests from commenters by clarifying the exception for transportation-related releases in § 355.40(b)(4)(ii) (formerly § 300.94(b)(4)(ii)) by specifying the contents of the notice and further defining "transportation-related release" in accordance with the legislative history of this provision.

Appendix A and B (formerly Appendix D and Appendix E)—List of Extremely Hazardous Substances and Threshold Planning Quantities

The appendices republish the list set out in the interim final rule with the addition of four new chemicals and the revised final threshold planning quantities.

The Agency is adding to the list of extremely hazardous substances four of the five chemicals proposed for addition in the proposed rule published on November 17 1986. The other chemical, urea,3-(3,4-dichlorophenyl)1-methoxy-1-methyl-, CAS number 330–55–2, will not be added to the list because of new data that indicates that this chemical does not meet the acute toxicity criteria. The Agency has determined that this chemical does not meet the present criteria.

In the interim rule, 40 chemicals were proposed for deletion from the list of extremely hazardous substances. Based upon public comment and upon reconsideration of the statutory criteria for revisions of the list, EPA has decided not to delete these substances from the list in this rulemaking. EPA agrees with commenters who indicated that under section 302(a)(4), chemicals should not be deleted from the list if they can be shown to have other health effects resulting from a short-term exposure at specified levels. The Agency does not currently have available criteria for determining such levels.

The Agency has also changed the way in which threshold planning quantities are applied to solids based on commenters' concerns. Under today's rule, the threshold planning quantity listed for each solid-form substance applies only if certain criteria are met. Otherwise the threshold planning quantity is 10,000 pounds. Since solids generally do not present an airborne release hazard unless they are handled in certain forms or are highly reactive, only those forms or levels of reactivity which can potentially result in an airborne release apply to the threshold planning quantity listed. Therefore, the listed threshold planning quantity will apply only to that fraction of the total quantity of a solid with a particle size less than 100 microns, that fraction of a solid in solution, or that fraction of a solid in molten form at any time. An adjustment factor of 0.3 to account for maximum potential volatility is also applied to solids in molten form. The total quantity in molten form must be multiplied by 0.3 and then compared to the listed threshold planning quantity to determine if reporting is required for that chemical. With respect to reactivity, only solids with a National Fire Protection Association (NFPA) rating, or those that meet the criteria for a rating of 2, 3, or 4 for reactivity, do not default to a threshold planning quantity of 10,000 pounds. Solids on the list of extremely hazardous substances in Appendices A and B have two TPQ values. The first applies to solids that meet the form (i.e., <100 microns) or reactivity criteria described above; the second TPQ (10,000 pounds) are for solids that don't meet the form or reactivity criteria.

In addition, the Agency has made two changes in threshold planning quantity categories. The "any amount" category has been eliminated and a new one-pound category added for substances considered to be of the highest potential hazard. The two-pound category has also been eliminated with two chemicals reassigned to the one-pound category and the others in this category reassigned to a new ten-pound category. These changes were made in response to commenters' concerns over the inconsistency between TPQ levels and CERCLA RQ levels.

A number of chemicals have been moved to different threshold planning quantity categories in this rule based on revised categories discussed above or on new or reevaluated toxicity data. Those chemicals whose threshold planning quantities were reassigned are noted in the list in Appendix A and B; the reasons for the reassignments are indicated in footnotes. Approximately 36 chemicals were moved to lower categories while 12 were assigned higher TPQ values. More details on these reassignments can be found in the technical support documents which are available in the public docket.

IV Responses to Major Public Comments

A document summarizing the comments and responses to all the public comments is available in the public docket to this final rule. The major issues raised by the commenters and the Agency's response to them are described below.

A. Emergency Planning

1. Emergency Planning Under section 302

A number of comments focused on the emergency planning requirements of Title III. One commenter requested that the rule be amended to allow existing State and local laws the provide substantially similar protection to supercede the specific provisions of the federal rule.

Section 321 of SARA discusses the relationship of Title III to other federal, State, and local laws. This section generally provides that nothing in Title III shall preempt any State or local law, or affect any State of local law. However, material safety data sheets, if required under a law passed after August 1, 1985, must be identical in content and form to that required under section 311. Accordingly, while Title III does not supercede State or local laws, EPA has no authority to waive the requirements imposed under Title III. These requirements, including the threshold planning quantities, are intended to be minimum standards. However, EPA will work with States which have developed reporting forms and planning structures to determine the most efficient approaches to coordinate Title III requirements with existing State or local structures, forms and requirements where appropriate to avoid duplication of effort.

Several commenters feel that EPA should require States to notify the Agency when the State emergency response commissions/local emergency planning committees are established. EPA should then publish this information in the **Federal Register** or disseminate it in some way so that all affected parties could have access to it. One commenter noted that covered facilities must know to whom to report in order to comply with the notification requirements to Title III.

States are not required to provide information on the establishment of the State emergency response commissions and local emergency planning committees to EPA. However, the Agency strongly encourages States to notify the public, especially potentially affected facilities, and EPA as soon as the State emergency response commissions and local emergency planning committees are established. The Agency suggests that the facility contact the Governor's office if it does not have information on the commission. EPA Regional Administrators are writing to the Governors of each State and Territory to inform them of Title III requirements, to offer information and technical assistance in the development of the State and local planning structure and to request that they notify EPA of the establishment of the State emergency response commission.

One commenter believes that EPA should explain fully its expectations as to the responsibilities of the State emergency response commissions and local emergency planning committees. In response to this comment, EPA notes that Title III implementation is primarily a State and local responsibility. EPA does not intend to oversee the operation of individual commissions and committees. With respect to State responsibilities under Title III, EPA recommends that States review the appropriate sections of Title III when establishing their State emergency response commissions and local emergency planning committees and laying out the commission and committee responsibilities regarding planning and public availability. The Agency recommends that the State emergency response commission be as broad-based as possible, including key State agencies such as environmental protection, emergency management, health, occupational safety and health, labor and transportation, as well as other public and private sector representation as the State deems appropriate. EPA's Regional Offices are available to assist States in establishing and implementing the planning structure described in Section 301.

One commenter believes that the local planning committees could impose significant requirements on small businesses. The commenter feels EPA should clarify the information requirements in the emergency planning guidance and in the final rule.

With respect to the emergency planning guidance, the National Response Team's *Hazardous Materials Emergency Planning Guide* (notice of availability published on March 17 1987 52 FR 8360) describes the information requirements established under Title III and how this information will be useful in developing a local emergency plan.

The Agency is also clarifying the Title III emergency planning and notification requirements based upon public comment. With respect to the issue of burden on small businesses, the Agency's small business analysis does not show that these emergency planning requirements will cause a significant burden to small facilities. Because small facilities are likely to use or store fewer extremely hazardous substances and handle smaller amounts, the level of planning required will be commensurately smaller. In addition, unreasonable burdens on small facilities can be prevented because owners/operators of subject facilities will be represented on local emergency planning committees.

Facilities subject to section 302 will designate a facility emergency coordinator to participate in the planning process. Participation by the facility in the planning process provides an opportunity for the facility to present concerns regarding the burden of planning to the committee and to ensure that committee requests for information are necessary for planning. In particular, small businesses may wish to encourage special small business representation on the local emergency planning committee and also make their concerns known through their emergency coordinators.

One commenter stated that an extremely hazardous substance that was not stored on site but produced in a process such as an incinerator should be exempt from both threshold planning quantity calculation and exempt from release reporting if the release is covered by a Clean Air Act permit. EPA agrees that if none of the material is present on site and less than a TPQ is present at any one time during the year, then the extremely hazardous substance need not be reported to the local emergency planning committee. Further, if the release is federally permitted under section 101(10) of CERCLA, then the release need not be reported under section 304 of SARA.

Another commenter believes that there should be an exemption for plants over 5000 meters or some other distance from a community. EPA disagrees. No long distance exemption exists under section 302. For further discussion on plant distance from a community, see section F.1.a. below.

B. Emergency Release Notifications

1. Recipients and Providers of Section 304 Notification

Two commenters questioned the requirements under § 309.94(b)(1) of the interim final rule (now § 355.40(b)(1)) that directs facilities to notify relevant local and State emergency response personnel following an emergency release if there is no State commission or local committee. One commenter believed that this sentence should be deleted as it exceeds EPA's authority.

Along the same lines, one commenter expressed the concern that State commissions and local committees must be notified after a release, but in many States these commissions and local committees are not yet established. States are required to establish their commissions by April 17 1987 and those commissions must establish local

committees not later than 30 days after the designation of emergency planning districts or by August 17 1987, whichever is earlier.

In order to alleviate confusion over whom to notify prior to the dates upon which the commission and committee are to be established, EPA has revised the effective date of the notification requirements. As previously discussed, under today's rule the release notification requirements to the State commission become effective on May 22, 1987 and to local committees beginning August 17 1987 If a committee is in existence prior to that date, notification should be made to it as of the date of its establishment.

Section 301 of SARA provides that if the State commission is not set up by April 17 1987 the Governor must operate as the State commission, and thus notification must be made under today's rule even if no commission is established. Where no commission is established, the notifications would be made to the State Governor. Local committees are required to be established not later than 30 days after the designation of emergency planning districts or by August 17 1987 whichever is earlier. If local committees are not set up by August 17 notifications must still be made, but should be provided to local emergency personnel such as local emergency management offices or fire departments. As indicated by the legislative history of this provision, Congress intended that emergency release notification requirements become effective as of the dates when the commissions and committees are to be established. EPA, however, has delayed the effective date of release notification to the State since the list of extremely hazardous substances and reporting requirements have been under revision. Local and State governments may make any arrangements necessary for the receipt of the release information when commissions and committees are not yet established. Further discussion of effective dates can be found under section VI of this preamble.

One commenter believes that for transportation-related releases, the emergency release notification requirements should apply to the operator, rather than the owner of the facility. No changes were made to the rule in this regard because section 304 allows either the owner or operator to give notice after a release. Owners and operators may make private arrangements concerning which party is to provide release notification; however, under section 304 both owner and operator are responsible if no notification is provided.

The same commenter requested the Agency to define the term "transportation-related release." The Agency has defined this term for purposes of the release notification requirements in the revised final regulation.

2. Scope of Section 304 Reporting

One commenter recommended that EPA adopt under SARA the same policy formulated under section 102 of CERCLA to determine whether an RQ has been reached. The method used by CERCLA does not require aggregation of either releases from separate facilities or releases of different hazardous substances at the same facility. EPA agrees that this policy should be equally applicable to releases under section 304 due to similarity to section 103 of CERCLA.

One commenter believes that the section 304 emergency release notification requirements should apply to all releases that meet the notification thresholds and that have the potential for affecting anyone outside the facility boundaries. As discussed in section III above, EPA agrees that its codification of the statutory exemption for on-site releases, by requiring the release to result in exposure to persons off-site, could be interpreted to be broader than the actual statutory language. In today's rule, EPA has revised the regulations to better accord with the statutory language.

One commenter stated that releases into water or soil should also be covered under the SARA section 304 requirements rather than just air releases which the commenter believed was indicated in the November 17, 1986 regulations. However, the interim final rule did not indicate that the release notification requirements were only applicable to air releases. Although the original CEPP program was concerned primarily with the dangers of air releases (and the TPQs developed under section 304), section 304 of Title III, like section 103 of CERLCA, covers releases into all media.

3. Types of Releases That Are Exempt From Section 304 Reporting

i. Main Categories of Exemption. Several commenters asked for clarification of the various exemptions from section 304 reporting requirements. The statute provides several exemptions from notification. These are: (a) "Federally permitted releases" as determined under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 section 101(10); (b) releases which only result in exposure to persons within the facility boundaries; (c) releases from a facility which produces, uses, or stores no hazardous chemicals; (d) "continuous releases" as defined under CERCLA section 103 (f); and (e) releases of a FIFRA-registered pesticide, as defined under CERCLA section 103(e).

It should be noted, however, that some releases occurring at a facility which are not reportable under section 304 may still constitute reportable releases under CERCLA section 103 and must, if so, be reported to the National Response Center. Release reporting under section 304 is in addition to release notifiction under CERCLA section 103. Thus, notice to the National Response Center may be required even if no local of State reporting is required. CERCLA section 103, for instance, does not contain an on-site release exemption.

ii. Federally Permitted Releases. Seven commenters stated that "federally permitted releases" should be exempted from SARA section 304 release reporting. EPA agrees, but had already included this exemption in § 300.94 (now § 355.40), the emergency release notification section of the regulation. The exemption for "federally permitted releases" is identical to that under section 103 of CERCLA. Section 101(10) of CERCLA defines "federally permitted releases" for purposes of section 103 of CERCLA and release notification under Title III and includes 11 types of specific releases permitted under certain State and federal programs. As EPA issues clarifications of "federally permitted release" under section 103 of CERCLA, these clarifications will apply equally to releases notifications under section 304 of SARA. The issuance of rules clarifying the definition of "federally permitted release." will be the subject of a later rulemaking.

One commenter asked whether the "federally permitted release" exemption applies fully to State permitted releases. State permitted releases are exempted only to the extent that the releases are considered "federally permitted" under section 101(10) of CERCLA.

iii. Continuous Releases. Seven commenters requested that a clarification be made of the regulation establishing an exemption from reporting under section 304 for any "continuous release" of an extremely hazardous substance or CERCLA hazardous substance. Several commenters cited the Conference report on the Superfund Amendments and Reauthorization Act which states "releases which are continuous or

frequently recurring and do not require reporting under CERCLA are not required to be reported" under section 304. (H.R. Rep. No. 963, 99th Cong. 2d Sess, at 285 (1986))

Section 103(f) of CERCLA provides relief from the reporting requirements of section 103(a) for a release of a hazardous substance that is continuous and stable in quantity and and rate. (Instead, continuous releases are subject to annual reporting under section 103(f)).

As discussed in section III above, EPA agrees that this exemption from immediate release notification should apply to SARA section 304 to the same extent that such releases are not subject to reporting under CERCLA section 103(a) and clarifies the regulation today to that effect. Thus, "continuous releases" which require annual reporting under section 103(f) of CERCLA rather than immediate reporting under section 103(a) are not subject to reporting under section 304 of SARA. Unlike CERCLA section 103, however, there is no provision for alternative annual reporting under section 304. (Some continuous releases will be subject to annual reporting under section 313 of SARA.) In addition, because "statistically significant increases" from a "continuous release" must be reported as an episodic release under CERCLA section 103(a), such releases must also be reported under SARA section 304. Any clarifications or regulations interpretating "continuous" or "statistically significant increases" releases under CERCLA section 103(f) will also apply to SARA section 304.

One commenter noted that some power plants without federal permits may daily exceed RQ levels for some extremely hazardous substances such as SO_2 or SO_3. The commenter desired a clarification of the intent of EPA on this matter. Since such substances are non-CERCLA hazardous substances, reporting is not necessary as pursuant to CERCLA. In addition, such releases need not be reported if they qualify as "continuous" or "federally permitted releases" under CERCLA as discussed above. "Statistically significant increases" would be subject to section 304 reporting.

One commenter stated that a variance procedure is needed in the section 304 requirement to exclude or otherwise exempt upset conditions and baseline conditions under normal operations. EPA disagrees because upset releases are episodic and precisely the type of release intended to be reported under Title III. "Baseline conditions" are exempt only if "continuous" or "federally permitted." The fact that a release can be predicted from an upset situation or periodically from normal operations would exempt virtually all releases from all facilities from ever reporting, since most releases occur from either normal operations or upset conditions.

iv. Exclusion of Certain Types of Waste and Facilities Under Section 304. One commenter asked for an interpretation of "release" that would not include any disposal of hazardous waste or solid waste, if disposal is performed according to the permitting and other relevant requirements of the Resource Conservation and Recovery Act (RCRA) or the Toxic Substances Control Act (TSCA), or other applicable federal or State law.

Disposal of hazardous substances at a disposal facility in accordance with EPA regulations is not subject to CERCLA notification.

Regardless of the outcome of that decision, it is important to note that spills and accidents occurring during disposal *and outside of the approved operation,* that result in reportable releases of extremely hazardous substances or CERCLA hazardous substances, must be reported to the State emergency response commission and local emergency planning committee as well as to the National Response Center. In addition, PCB releases of an RQ or more from a TSCA-approved facility (as opposed to disposal into such a facility), must be reported under section 304 (and to the National Response Center).

The RCRA disposal issue is similar to PCB disposal under TSCA. In a final rule issued in April 1985, EPA determined that where the disposal of wastes into permitted or interim status facilities is properly documented through the RCRA manifest system and RCRA regulations are followed, notification under CERCLA does not provide a significant additional benefit as long as the facility is in substantial compliance with all applicable regulations and permit conditions. However, spills and accidents occurring during disposal that result in releases of reportable quantities of hazardous substances must be reported to the National Response Center under CERCLA § 103. 50 FR 13461 (April 4, 1985). EPA believes that the same rationale applies to section 304. Thus, no notification of proper disposal into such RCRA facilities is required under today's rule.

Another commenter wanted to know if mining and mineral extraction wastes were exempt under section 304. There is no such exclusion under section 304 and the release notification requirements apply if the wastes are CERCLA hazardous substances or extremely hazardous substances.

v. Releases from Facilities Not Handling "Hazardous Chemicals" Several commenters requested that since certain chemicals at research laboratories are exempt from the definition of "hazardous chemicals" and thus exempt from release notification requirements under section 304, that this exclusion be extended to section 302 planning requirements.

SARA defines "hazardous chemical" under section 311. Under section 311(e) "any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual" is excluded from the definition of "hazardous chemical." Section 304 of SARA also states that releases of extremely hazardous substances and CERCLA substances are reportable under section 304 only when from a facility where hazardous chemicals are produced, used, or stored. However, because the planning requirements are not tied in any way to "hazardous chemicals," the "hazardous chemical" exclusion of section 304 does not extend to section 302.

In addition, for emergency notification purposes under section 304, if a release of an extremely hazardous substance or CERCLA substance exceeds the reportable quantity and occurs on a facility that produces, uses, or stores a "hazardous chemical," the facility owner or operator must notify the required parties. Accordingly, the research laboratory is exempt from section 304 emergency notification only if *no* hazardous chemicals are present at the facility, other than those used at the laboratory under the direct supervision of a technically qualified individual.

vi. Other Exemptions from Section 304 Reporting. Section 304(a) applies to releases which require notification under section 103(a) of CERCLA or, for substances which are not "hazardous substances" under CERCLA, releases which "occur in a manner which would require notification under section 103(a)" of CERCLA. As indicated above, "continuous" releases as defined under section 103(f) do not require immediate release reporting under section 103(a) except for "statistically significant increases." Because such releases do not "occur in a manner" which requires immediate release reporting under section 103(a) of CERCLA, they are also not reportable under section 304 of SARA.

In addition, there are other types of releases which are not reportable under section 103(a) of CERCLA. For instance,

EPA has been asked whether the application of pesticide products by an agricultural producer constitutes a reportable release under section 304. The application of a registered pesticide generally in accordance with its purpose is exempt from section 103(a) notification under section 103(e) of CERCLA. Because such releases are not reportable under section 103(a) of CERCLA, they are also exempt from release reporting under section 304(a) of SARA, and EPA has clarified the release reporting regulations to include this exemption. Similarly, section 101(22) of CERCLA excludes several types of releases from the definition of "release" and thus from release reporting under CERCLA section 103(a). These releases, which include emissions from engine exhaust, certain nuclear material releases, and the normal application of fertilizer, are also excluded from release notification under section 304 of SARA.

With respect to other exemptions, one commenter requested that section 304 be clarified to indicate whether the CERCLA "petroleum exclusion" applies to release reporting under Title III. The commenter felt that since "petroleum, including crude oil or any fraction thereof" is exempt from reporting under section 103 of CERCLA, it should also be exempt from reporting under section 304 of SARA.

However, "petroleum" is exempted generally from CERCLA responsibilities since it is excluded from the definition of a "hazardous substance" under section 101(14) and "pollutant or contaminant" under section 101(33) of CERCLA. Because no such exclusion exists under Title III, if extremely hazardous substances are present in petroleum, those substances are subject to applicable emergency planning and release notification requirements under Title III.

One commenter felt that particulates and other substances emitted from power plants should be exempt from § 300.94 (now § 355.40) emergency release notification requirements.

Such a release is exempt from § 355.40 if it is "federally permitted" as defined under Section 101(10) of CERCLA, "continuous" as defined under section 103(f) of CERCLA, or confined within the site. As mentioned before, the Agency is currently developing regulations defining "federally permitted" and "continuous releases." Such rules and interpretations will also apply to release notification under Title III.

vii. Mixtures. With regard to facilities which produce, use, or store mixtures, one commenter stated that this kind of facility should be exempt from section 302 notification requirements if the extremely hazardous substance component information is not available on the MSDS provided by the manufacturer. EPA disagrees. If the facility which produces, uses, or stores mixtures knows or reasonably should know the components of the mixture, the facility owner or operator must notify under section 302 if the extremely hazardous substance component is more than one percent and more than the TPQ. The facility owner or operator is not under an obligation, however, to inquire of the manufacturer the components of the mixture. Section IV F.3 below discusses the one percent de minimis limit of extremely hazardous substances in mixtures for purposes of determining quantities applicable to the threshold planning quantities.

The same commenter believes that the de minimis concept should also be applied in the determination of emergency release notification. EPA disagrees, since the de minimis quantity was set in place for threshold quantities simply to make the calculation of the total amount of extremely hazardous substances on a facility more straightforward for planning purposes. The more dilute an extremely hazardous substance is, the more difficult it is to identify the substance in a mixture and the less likely to be released in a large quantity. For release reporting, however, the "de minimis" is the RQ because the extremely hazardous substance is already in the environment potentially doing harm. But whether or not the RQ is exceeded depends on the amount of the substance in the mixture, if known. This is the CERCLA "mixture" rule. See April 4, 1985 RQ rule (50 FR 13463).

4. Section 304 Transportation Issues

One commenter asked how an important carrier will know if he/she is carrying an extremely hazardous substance. First, EPA notes that the definition of facility in Title III does not cover transportation facilities with respect to facility planning notification and participation under section 302. However, local communities should take into account the local routes on which extremely hazardous substances will be transported in developing their emergency response plans.

Second, the definition of facility does cover some transportation facilities for purposes of release notification under section 304. However, because section 329 defines "facility" to include only "motor vehicles, rolling stock, and aircraft," vessels are not subject to section 304. Third, with respect to the degree of knowledge required, section 304 does not specify the degree of knowledge required for release reporting, or even that any knowledge is required. However, because of the close relationship between section 304 of SARA and section 103 of CERCLA, EPA interprets section 304 to require the same degree of knowledge as required under CERCLA section 103. Neither section 103 of CERCLA or section 304 of SARA impose separate monitoring or testing requirements on facility owners and operators.

One commenter asked if the release regulations apply differently to foreign flag carriers as opposed to domestic carriers. As noted above, ships are not covered under section 304.

One commenter requested clarification of the responsibility of transportation operators in the event of a spill or release of extremely hazardous substances or CERCLA substances. Although owners/operators of transportation facilities are not required to notify State and local authorities with regard to section 302 contingency planning, they are required to report releases under section 304.

With regard to stationary facilities, Section 304 requires owners and operators to report releases to the local emergency planning committee and to the State emergency response commission. Owners and operators of transportation facilities under section 304 are allowed to call the 911 emergency number in lieu of calling the State commission and local committee, or in the absence of a 911 number, the operator. The rationale for this separate reporting is that transportation operators on the road may very well not know the telephone numbers of the relevant State and local entities. If the transportation operator is in a community which has a generic emergency number rather than 911, the generic number should be used instead of 911. Note that if the release is of a CERCLA hazardous substance, a call to the National Response Center is also required. Local committees should consider training all personnel responsible for receiving telephone notice of such a release, so that proper notification procedures will be maintained.

One commenter asked if section 304 release notification requirements apply to pipelines, barges, and other vessels as well as to other transportation facilities. Section 327 of SARA states that Title III does not apply to the transportation of any substance or chemical, including transportation by pipeline, except as provided in section 304. Section 304 requires notification from facilities of releases of extremely hazardous

substances and CERCLA hazardous substances. The word "facility" is defined in section 329 to mean stationary items, which would include pipelines. The definition also includes, for purposes of section 304, motor vehicles, rolling stock, and aircraft. Because barges and other vessels are not included in the definition of "facility," they are not subject to section 304 reporting requirements.

Another commenter asked when and where an air carrier should report a release. For instance, should he/she report the release to the State where the release occurred or wait until the airport of destination to report? EPA believes that since aircraft should always have radio communication capabilities, the report should be given to the State(s) likely to be affected by the release as soon as possible after release. Reporting the release on arrival at the destination will not necessarily enable the provision of timely emergency response to the affected areas.

5. The Mechanics of Section 304 Reporting

One commenter stated that section 304 notification should go to the local emergency planning committee only, rather than to the local emergency planning committee *and* the State emergency response commission. Section 304 requires notification to both entities.

One commenter stated that section 304 release notification requirements should apply to reporting to the National Response Center under CERCLA section 103 as well as to State and local authorities. Although many releases subject to section 304 reporting requirements are also subject to reporting requirements under CERCLA section 103, no reporting to the National Response Center is currently required for the 256 extremely hazardous substances which are not "hazardous substances" under CERCLA. EPA intends to designate these 256 extremely hazardous substances as "hazardous substances" under CERCLA section 102. At that time, releases of such substances will also become reportable to the National Response Center under CERCLA section 103.

One commenter believes that the telephone notification to the National Response Center under CERCLA section 103 should suffice for the new requirements under SARA section 304. The commenter feels that the requirement to call the State and local authorities is too much of a burden when added to the existing CERCLA-required call to the National Response Center. EPA disagrees. The basic purpose behind the emergency planning and notification requirements of Title III is to protect the public in the event of dangerous chemical releases through the establishment of local and State emergency response capability. Because State and local participation for effective and timely emergency response is central to Title III, these entities must be alerted to potentially dangerous chemical releases. Thus, telephone notification to the federal government alone, through the National Response Center, does not meet the intent of the statute.

Three commenters requested a simplification in words or chart of the various requirements for release notification under section 103 of CERCLA and section 304 of SARA. CERCLA section 103 concerns reporting requirements for releases of "hazardous substances" as defined under section 101(14) of CERCLA. Under section 103 of CERCLA, a release of a hazardous substance in an amount equal to or in excess of its RQ which is not otherwise exempted under CERCLA, must be reported to the National Response Center. SARA section 304 provides a similar reporting requirement for releases of hazardous substances as defined under section 304 as well as releases which require notification under CERCLA section 103. However, reporting under section 304 must be given by the owner or operator of a facility to the community emergency coordinator for the local emergency planning committee and to the State emergency planning commission rather than the National Response Center under CERCLA section 103.

With respect to transportation of a substance subject to the requirements of section 304 or storage incident to such transportation, owners and operators may call the 911 emergency number in lieu of calling the State commission and local committee, or in the absence of a 911 number, may call the operator. The rationale for this separate reporting is that transportation operators on the road may very well not know the telephone numbers of the relevant State and local entities. If the transportation operator is in a community which has a generic emergency number rather than 911, the generic number should be used instead of 911. Note that if the release is of a CERCLA hazardous substance, a call to the National Response Center is also required.

Further, EPA intends to designate under section 102 of CERCLA all extremely hazardous substances which are not already defined as "hazardous substances" under section 101(14) of CERCLA. The designation will include all 256 extremely hazardous substances that are not presently "hazardous substances" under CERCLA. At that time, any substance requiring local and State release reporting under section 304 of SARA will also require reporting to the National Response Center under section 103. In addition, the extremely hazardous substances will continue to trigger contingency planning requirements in addition to release reporting.

With regard to the contents of the required notification under SARA section 304 and CERCLA section 103, the required contents of section 304 emergency notification is set out in § 355.40 (formerly § 300.94). Although section 103(a) of CERCLA does not specify the contents of release notification, the information necessary under section 103(a) for potential federal response, e.g., type of substance and nature, location, and effects of the release, should not differ for any practical purpose from the content of the notice specified under section 304.

Section 304 also requires follow-up written emergency notice to the State emergency response commission and the local emergency planning committee. The content of this notice is set out in § 355.40 (formerly § 300.94).

6. The Contents of Section 304 Notices

Two commenters believe that the CERCLA and Title III telephone notification should include the same basic information, such as whether the incident is still ongoing, abatement actions by whatever entities, cause and injuries in the incident if known, amount spilled, etc. The required contents of the emergency notification was set out in the interim final rule, and is republished in today's rule. The Agency does not believe that the notification specified in Section 304 and today's rule should vary from the CERCLA notification in any significant way.

One commenter believes that the final rule should include guidance on how to report information on "known or anticipated health risks" under SARA section 304(b)(2)(F) (immediate report) and 304(c)(2) (follow-up report). At the same time, the commenter stated that since general health information is already given on a "material safety data sheet" (MSDS) for the chemical, then an indication that "severe adverse health effects may be expected" should suffice. EPA disagrees. The health information contained in an MSDS is general and will not be specific enough to be of use to health professionals, especially if the chemical name is confidential on the MSDS.

One commenter stated that the requirement regarding the inclusion of any known or anticipated health effects associated with the release is a mistake since anticipating health effects is speculative at best and the release report should stick to fact, not speculation.

EPA disagrees. The inclusion of this requirement in the interim final rule, and today's rule, is based on the contents of the notice specified in section 304(b)(2) of SARA.

Several commenters wrote to the Agency regarding the written follow-up emergency notice.

One commenter stated that the written report should include where the incident took place and the cause of the accident, to be consistent with CERCLA and RCRA. EPA believes that the location of the release is always essential for emergency response purposes and should be identified in any release notification under section 304.

One commenter believes that the written notification requirements should also include results of a facility's inspection. The inspection specifies the preventive measures to be applied to prevent future releases. EPA agrees that this may be an effective preventive tool but has not made this information a requirement for release reporting. State and local governments may wish to require such information. In addition, a release prevention program under CERCLA will require a releaser who has more than a specified number of releases of a certain hazardous substance, or releases in certain quantities above the RQ, to report in writing to EPA and to the State the specific steps that are being taken to prevent reoccurrence of the release.

The same commenter felt that written follow-up information should go not only to the local planning committee but also to the State commission and to the State environmental agency. Section 304(c) of SARA mandates that follow-up notification go to the same entities that received the initial oral notification, i.e., the State commission and the local committee. State environmental agencies may request the information. In addition, in most cases, environmental agencies will be represented on the commission and therefore the information will be available to them.

C. Criteria Used to Identify Extremely Hazardous Substances

1. Toxicity Criteria

a. *Narrowness of Criteria.* Several commenters suggested the need to broaden the selection criteria to include other health effects that may result from short-term exposures. The commenters contend that Congress intended the Agency to take these other toxic effects into account in developing a comprehensive approach to emergency planning.

The Agency agrees with the commenters that the intent of Congress is to include substances that cause both short-term and long-term health effects following short-term exposure. Under the Chemical Emergency Preparedness Program, it was the Agency's intent to take into account all toxic effects to humans that may be associated with short-term exposure to chemicals. However, a review of available data indicated limited information on other effects resulting from short-term exposures to airborne substances. In addition, generally accepted methods of extrapolating data on health effects resulting from multiple or long-term exposure to indicate effects that may result from short-term exposure are not available. Comments were requested in the proposed rule on how chronic and other health effects from short-term exposures could be incorporated into criteria for the list. The commenters had no specific suggestions for such criteria. In the future, the Agency intends to consider the development of additional toxicity criteria for acute non-lethal and chronic effects due to short-term exposure. In the meantime, EPA agrees that substances cannot be deleted from the extremely hazardous substances list until the Agency can evaluate non-acute toxic effects from short-term exposure to these substances.

b. *Oral and Dermal Toxicity Data.* Comments were received concerning the Agency's inclusion of oral and dermal lethality values in addition to inhalation toxicity data to identify air toxicants as opposed to relying only on inhalation toxicity data. Some commenters expressed support for the Agency's position, while others suggested that the use of such data is inappropriate or should be modified. The Agency is using acute lethality data from the oral, dermal, and inhalation routes in order to identify chemicals with high inherent toxicity. Consideration of inhalation data only would lead to the omission of many chemicals for which there may be no inhalation studies; if these chemicals are highly toxic by oral or dermal administration, the Agency believes they may be potentially hazardous via the inhalation route and should be so identified. Other organizations such as the European Economic Community and the World Bank agree that these data should be used in identifying acutely toxic chemicals. Based on these reasons, the Agency is retaining the use of oral and dermal lethality values.

c. *Use of LC_{LO} and LD_{LO} Data.* In the absence of median lethal concentration or doses (LC_{50} or LD_{50}) data, lowest lethal concentration or dose (LC_{LO} or LD_{LO}) data were used to identify extremely hazardous substances. Several commenters questioned the use of such data. Other commenters suggested that when such data are used, they should be evaluated more stringently than LD_{50} or LC_{50} data and lower criteria values should be specified. Even with the amount of animal acute lethality data that is available, there are chemicals for which there are no standard acute lethality test data. LC_{LO} and LD_{LO} values may be more variable than those provided from median lethality tests, but for the purposes of screening large numbers of chemicals, it is deemed necessary to provide a second level screening tool in preference to missing potentially toxic chemicals because chemicals are not adequately tested. Because there is no quantitative basis for comparison of LC_{LO} and LD_{LO} values with LC_{50} or LD_{50} values, it is not possible to develop additional criteria levels for these values. At present, for the purposes of identifying highly toxic chemicals, the Agency will continue to treat LC_{LO} and LD_{LO} data in the same manner as the LC_{50} and LD_{50} data in the absence of the latter. Currently, approximately ten percent of the total number of chemicals on the list have been identified based on LC_{LO} or LD_{LO} data.

d. *Exposure Time.* Several commenters questioned the use of inhalation toxicity data based on any reported exposure times of up to eight hours or with no reported exposure time. Acute inhalation toxicity test results depend upon the concentration of the chemical in air and the duration of the exposure periods. Because of this, LC_{50} and LC_{LO} values for a chemical may vary depending upon how long the animals were exposed to the substance. The Agency chose to make maximum use of available acute toxicity data to screen for acutely toxic chemicals and, therefore, chose to use LC_{50} and LC_{LO} values with exposure periods up to eight hours or with no reported exposure period. The Agency believes that this conservative approach, which might identify more chemicals than would be found using a specified period such as four hours as a cut-off time, is in accordance with the intent of Congress to protect public health and safety. In the absence of other data, and considering the general relationship of LC_{50} and LC_{LO} values, it is believed that

such substances represent potential hazards as acutely toxic chemicals. Additionally, there is no available scientifically accepted method to adjust data from varying exposure times to obtain a normalized value. The Agency is therefore not making such an adjustment.

e. *Use of Animal Data.* Several commenters were concerned with the use of animal data to identify extremely hazardous substances potentially harmful to humans. They believed that human data should be used in preference to animal data when available and that animal data should be further evaluated to determine its applicability to humans. The Agency has chosen to use data from the most sensitive mammalian species because present state-of-the-science does not allow prediction of the species that is the appropriate surrogate for humans for a given chemical. The human population is very heterogeneous and, in fact, comprises many subpopulations with varying degrees of sensitivity to the toxicity of a chemical. One of the main principles supporting all animal toxicity testing is that the biological activity of chemicals as reflected in toxic effects in animals can also lead to toxic effects in humans. Ideally, all toxicity tests should be conducted with an animal species/strain which most accurately reflects the toxic response in humans. There are no data available, however, to indicate which species most accurately reflects the human response for every chemical. To obtain such data, extensive laboratory work on a variety of species would need to be conducted. Further, only data on toxicity to humans could verify which is the appropriate species for a given chemical. The Agency wil retain the use of data from the most sensitive species tested to screen chemicals. If data on humans are available for specific chemicals, they will be evaluated on a case-by-case basis.

2. Physical/Chemical Properties

Several commenters suggested using vapor pressure and ability to disperse as criteria to limit the number of high-boiling point liquids and solids on the list. Consequently, the chemicals remaining on the list would be those with higher dispersion potential. One commenter suggested the publishing of more than one list of extremely hazardous substances based on different release and dispersion scenarios. Several commenters suggested the evaluation of other physical and chemical properties of substances, such as flammability, reactivity, and combustibility, as criteria for listing chemicals.

The list of extremely hazardous substances, mandated by Congress, is presently based on inherent acute toxicity. Physical and chemical properties of substances on the list are considered in establishing the threshold planning quantities (see below), but these factors are not used as criteria for listing because each chemical could be handled at non-ambient conditions. Because of very variable conditions, the Agency believes it is appropriate to deal with factors such as ability to disperse and physical/chemical properties on a site-specific basis. Local emergency planning committees will consider these factors at the community level when assessing potential exposure of vulnerable populations. EPA urges communities to take all these factors into account to identify other hazardous substances with which they may be concerned and to prioritize all such substances in the community for emergency planning.

The Agency does intend to evaluate hazards other than toxicity as identified in section 302(a)(4) and to develop appropriate criteria based on these physical/chemical properties, e.g., flammability, for revising the list of extremely hazardous substances in the future. However, EPA has not considered these additional properties in the context of this rulemaking.

3. Use of RTECS

Several commenters were concerned with the Agency's use of the National Institute of Safety and Health's (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) Database. The overall comments were that RTECS is neither intended for, nor is it capable of, being used as a primary source of health data and that the database is not peer-reviewed. The present screening criteria can be applied to any experimental toxicity data on chemical substances. The RTECS data base was used as the principal source of toxicity data for identifying acutely toxic chemicals because it represents the most comprehensive respository of acute toxicity information available with basic toxicity information and other data on approximately 87,000 chemicals. It is widely accepted and used as a toxicity data source by industry and regulatory agencies alike. Although RTECS itself is not formally peer-reviewed, the data presented are from scientific literature which has been edited and in most cases peer reviewed by the scientific community before publication. The Agency recognizes some limitations associated with using this data base, but for the purpose of screening acute toxicity data, RTECS represents the single best source of information since it is the most comprehensive data source available.

D. List of Extremely Hazardous Substances

1. Changes to the List in this Rule

a. *Deletions.* In the companion proposal to the interim final rule published on November 17 1986, the Agency proposed the deletion of 40 chemicals which do not now meet the acute lethality listing criteria. They no longer meet the existing criteria because new data have recently become available, existing data have been reevaluated, or errors occurred in the RTECS data base. Several commenters supported some or all of the proposed changes; however, other commenters challenged the deletion of these chemicals before the Agency has determined that they pose no other health hazards as a result of a short-term exposure.

The Agency has decided not to delete any of the 40 chemicals proposed for deletion at this time. When the list of extremely hazardous substances was developed in 1985 (as the list of acutely toxic chemicals for the voluntary Chemical Emergency Preparedness Program) it was intended as an example list. When the list became part of Title III of SARA, the Administrator of EPA was given the authority to revise the list, but only after various criteria were considered. These criteria include the toxicity, reactivity, volatility, dispersibility, combustibility or flammability of a substance. The section 302 definition of the term "toxicity" includes any short- or long-term health effect which may result from short-term exposure. Based on this statutory provision, the Agency believes that substances cannot be deleted from the list until EPA has taken into account the other (i.e., long-term) health effects resulting from a short-term exposure to the substances at specified levels. The criteria for determining such levels are not available. In the future, the Agency intends to address the development of additional toxicity criteria for acute non-lethal and chronic effects due to short-term exposure. Until these criteria are available and the forty chemicals in question can be reassessed, these chemicals have been assigned the TPQ level of lowest concern, namely 10,000 pounds.

b. *Additions.* In the interim final rule, the Agency proposed the addition of five chemicals to the list and requested

public comments on the proposed additions. One comment was received concerning urea, 3-(3,4-dichlorophenyl)-1-methoxy-1-methyl- The commenter believed that the toxicity of this chemical did not meet the criteria and submitted unpublished toxicity data to support its claim. The Agency has reviewed the submitted data and finds that the chemical does not meet the present criteria. Therefore, the chemical will not be added to the list. The remaining four of these five chemicals are added to the list in this rule.

c. *Additional Suggested Changes.* A number of commenters recommended the deletion of specific chemicals from the list in addition to those in the interim final rule. As discussed above, the Agency has decided not to delete any chemical until other health effects resulting from short-term exposure have been assessed. Further, such deletions will be accomplished through rulemaking. One commenter suggested additions to the list. The Agency will take this request under consideration and any additions will be proposed in later rulemaking.

d. *Radioactive Materials, Food, Drugs, and Cosmetics.* The Agency requested comments on whether radioactive materials and chemicals used as food additives, drugs, and cosmetics should be added to the list. Such chemicals were not considered for the list if they were not listed in the 1977 Toxic Substances Control Act Inventory. Commenters expressed conflicting opinions as to whether radioactive materials and the chemicals used in foods, drugs, and cosmetics should be listed. After review of the comments, the Agency has decided to maintain its original policy with respect to these chemicals and thus will not consider these substances for addition to the list at this time.

E. *Determination of Levels of Concern*

1. Use of IDLH Values

Two commenters supported the use of the Immediately Dangerous Life and Health Level (IDLH) as developed by NIOSH as the level of concern. A third commenter supported the use of IDLH only as an interim measure. Two commenters suggested that if the IDLH is used, then appropriate uncertainty factors should be employed. Another commenter suggested that the Agency continue to identify more appropriate alternatives.

The Agency recognizes that the IDLH has some limitations as a measure for protecting general populations. First, as commenters pointed out, the IDLH is based upon the response of a healthy, male worker-population and does not take into account exposure of more sensitive individuals such as the elderly, pregnant women, children, or people with various health problems. Second, the IDLH is based upon a maximum 30 minute exposure period which may not be realistic for accidental airborne releases. Based on these considerations, the Agency has identified the development of more appropriate chemical emergency exposure levels for the general public as a priority. However, at present, the IDLH value, or an estimation of level of concern based on acute toxicity data for substances that do not have a published IDLH, appears to be a suitable measure of relative toxicity for use in the methodology for establishing threshold planning quantities (see discussion under F).

2. Use of Acute Lethality Data

Two commenters addressed the use of acute lethality data to determine levels of concern. It is the Agency's policy to make maximum use of available acute toxicity data not only to identify chemicals for the list but also to serve as the basis for determining the levels of concern. This approach enables the Agency to develop levels of concern for all the chemicals on the list and to utilize this value as the toxicity ranking factor in establishing the TPQs.

One commenter was concerned that interchangeable use of LC and LD data would result in similar threshold planning quantities for substances with differing potential for harm. As the threshold planning quantities are not a measure of absolute risk, but rather a trigger for facility reporting, the Agency will continue to use both LC and LD data. Further, these data are not used interchangeably, as factors are applied in estimating level of concern to take into account differences between LC and LD data.

Three commenters expressed concern over the use of LC_{LO} and LD_{LO} data when IDLH and LC_{50} and LD_{50} values are not available to estimate levels of concern. Specific comments addressed the length of LC_{LO} exposure time, the need to adjust the threshold planning quantities downward when LC_{LO} and LD_{LO} are used, and the perceived inappropriateness of using such data. The Agency recognizes that these values are often derived from studies that vary in quality. However, the Agency has chosen to continue using the LC_{LO} and LD_{LO} values in order to calculate a level of concern even when the data are limited. Factors are applied in the calculation to take into account the fact that these values may be lower than LC_{50} and LD_{50} values.

F *Threshold Planning Quantities*

1. Methods Used to Establish Threshold Planning Quantities

Under section 302, if the Agency did not develop threshold planning quantities for each of the 402 substances on the list of extremely hazardous substances within 30 days after the date of enactment of Title III, then the threshold planning quantity would become two pounds. Interim final threshold planning quantities were published simultaneously with the publication of the list on November 17 1986. Any facility that has one or more of the chemicals on the list of extremely hazardous substances in quantities in excess of the threshold planning quantity must provide notification to the State emergency response commission by May 17 1987 Because of this, the Agency believes that the two-pound threshold planning quantity for all 402 substances would overwhelm local emergency planning efforts and would not take into account differences in potential hazards posed by individual substances.

The Agency considered four possible approaches for development of threshold planning quantities and invited public comments on each of them.

Approach 1. *Specific Quantity Prediction.* Under this approach, the Agency would have determined the specific quantity of each chemical that, if accidentally released in a specified situation, would result in significant acute health effects at a fixed distance from the release site.

Approach 2. *Dispersion/Toxicity Ranking Method.* Under this approach, the Agency assigned chemicals to threshold planning quantity categories based on an index that accounts for the toxicity and the potential to become airborne of each chemical in an accidental release. This approach is based on relative ranking and the assignment of each chemical to one of a series of threshold planning quantity categories, but does not give a measure of absolute risk.

Approach 3. *Toxicity Ranking Method.*

Under this approach, the Agency would have assigned categories of threshold planning quantities based solely on a relative ranking of each chemical's toxicity.

Approach 4. *Two Pound Quantity for All Chemicals.* Under this option, the default quantity mandated by Congress

of two (2) pounds would have been used.

a. *Approach 2.* After considerable analysis, the Agency chose to develop threshold planning quantities using Approach 2 with modifications as described below. Several commenters supported the use of Approach 2, although some did have a reservation concerning exclusion of hazards other than acute lethality. Some commenters criticized the assumptions made, for example that liquids should be assessed at their boiling points. Some commenters suggested that the threshold planning quantities should reflect the ability of the substance to be dispersed in air. Several commenters felt that distance and storage conditions should be incorporated into the threshold planning quantity calculation.

Approach 2 provides a basis for relative measures of concern rather than absolute values, and the Agency continues to believe that such measures are appropriate for facility reporting for emergency response planning. Under Approach 2, the level of concern for each chemical is used as an index of toxicity, and physical state and volatility are used to assess its ability to become airborne. The two indices are combined to produce a ranking factor. Chemicals with a low-ranking factor (highest concern), based on the Agency's technical review, are assigned a quantity of one pound (see discussion in 2.b. below). It is believed that the one-pound quantity represents a reasonable lower limit for the most extremely hazardous substances on the list. Chemicals with the highest ranking factors, indicating lower concern, were assigned a threshold planning quantity of 10,000 pounds. This ensures that any facility handling bulk quantities of any extremely hazardous substances would be required to notify the State commission. Between the limits of one pound and 10,000 pounds, chemicals were assigned to intermediate categories of 10, 100, 500 or 1,000 pounds based on order of magnitude ranges in the ranking factors. The selection of the intermediate categories was based on standard industrial container sizes between one and 10,000 pounds.

The Agency believes that limited State and local resources should be focused on those substances that potentially will cause the greatest harm should an accidental release occur. The TPQs developed in Approach 2 meet the objective such that substances that are most likely to cause serious problems (extremely toxic gases, solids likely to be readily dispersed, or highly volatile liquids) have lower TPQs than those that might be toxic but are not likely to be released to the air (non-reactive, non-powdered solids).

With respect to commenters who believe that other hazards should be considered, criteria presently are not established to assess hazards other than acute lethality. However, EPA intends to develop such criteria in the future for listing additional chemicals as extremely hazardous substances. When such criteria are available, the Agency will assess their appropriateness for consideration in calculating threshold planning quantities of chemicals which meet this criteria.

In response to comments concerning the assumptions made in calculating threshold planning quantities, many of these assumptions were designed to be conservative. Liquids, for example, were examined for the degree of volatilization expected from a spill at both 25 °C and at the chemical's boiling point. Since many of the extremely hazardous substances may be handled at temperatures greater than ambient, an assessment of the degree of volatilization at an elevated temperature is appropriate. Therefore, the Agency chose to evaluate the degree of volatilization expected at the liquid's boiling point for ranking against gases and powdered solids. Actual site conditions associated with the liquid that influence the degree of volatilization (such as spill area and temperature) should be addressed during community planning efforts.

With respect to comments on the volatilization model used by the Agency, this model was compared to other available models to calculate the vapor generation rate from a liquid spill. Some of these models include factors that account for wind and cooling associated with evaporation. Results from the model used by the Agency were of the same order of magnitude and within the range predicted by the other models tested. An order of magnitude change in the ranking factor of a chemical is required to change its threshold planning quantity. Therefore, even though the simple model used by the Agency to estimate volatilization does not account for wind or cooling effects of evaporation, it is appropriate for purposes of ranking the chemicals. The Agency believes that Approach 2 does account for the ability of an extremely hazardous substance to disperse by considering a substance's physical properties. However, as discussed below, Approach 2 has been modified to better reflect the dispersibility of solids by including particle size and whether the solid might be handled in solution or molten form for calculating the threshold planning quantities. No modification has been made to account for the actual behavior of vapor or airborne particles because of the wide degree of variation of site-specific conditions that could affect airborne dispersion. The source strength, meteorology and terrain must also be considered with distance to accurately account for the degree of dispersion.

Finally, EPA disagrees with commenters who felt that distance to vulnerable populations and storage conditions should be incorporated into TPQ calculation. The inclusion of distance to potential vulnerable populations in the threshold planning quantity calculation is inappropriate as site conditions vary greatly. It is therefore better to consider distance at the planning stage at the community level. A forthcoming technical guidance document which will supplement the NRT *Hazardous Materials Planning Guide*, will provide information on how this may be accomplished.

The Agency has decided that the total amount of a chemical present at a facility must be used for judging whether a threshold planning quantity has been exceeded, regardless of distance between containers or the size of containers. Storage conditions are more appropriately addressed at the planning stage and will also be described in the aforementioned technical guidance document.

b. *Solids.* Threshold planning quantities for solids were originally calculated under the assumption that they could be completely dispersed if in powdered form. Several commenters noted that the threshold planning quantities are not appropriate for non-powdered, non-reactive solids since they are not likely to become airborne. They argued that even powdered materials which may be dispersed as aerosols will rapidly fall out unless the particle size is very small and, thus, the threshold planning quantity should be set higher than 10,000 pounds for non-powdered, non-reactive solids.

The Agency agrees that additional factors should be considered in establishing the threshold planning quantities for solids since solids can take many forms. Accordingly, EPA has modified Approach 2, so that the threshold planning quantity for each solid now applies only if it is a powder with a particle size less than 100 microns, or it is handled in solution or molten form, or it has a National Fire Protection Association rating of 2, 3 or 4 for reactivity. If the solid does not meet these specific criteria, the threshold

planning quantity will default to 10,000 pounds, the highest TPQ level. The Agency has not raised the highest TPQ level above 10,000 pounds because it believes that any chemical present in this quantity or greater, which meets the Agency's criteria for an extremely hazardous substance, should be brought to the attention of the State commission and the local planning committee, irrespective of the physical form of the solid substance. This will enable planning officials to evaluate such solids and the facilities that handle them on a case-by-case basis.

Accordingly, the TPQ calculation for a solid applies only to the fraction of the total quantity of solid with a particle size less than 100 microns, or in molten form, or in solution. In addition, for solids in molten form, the amount molten at any time is multiplied by an adjustment factor of 0.3 to conservatively account for the maximum volatilization of the spilled molten substance that is likely to take place.

Thus the quantity applicable to the threshold planning quantity calculation is the molten portion times 0.3.

c. *Other Approaches.* Two commenters discussed Approach 1. One commenter considered that Approach 1 was more appropriate than Approach 2 for calculating chemical-specific threshold planning quantities. The assumptions used in Approach 1 were numerous and could lead to highly variable results. It would be difficult to choose the appropriate release scenario for setting the threshold planning quantity from among the many release scenarios possible under Approach 1. For these reasons the Agency still considers Approach 2 to be the most appropriate for calculating threshold planning quantities.

No comments were received on Approach 3. Commenters expressed support for not allowing the threshold planning quantity to default to two pounds as proposed in Approach 4.

2. Suggested Reassignments to Different Threshold Planning Quantities

a. *Threshold Planning Quantity Adjustments.* Eleven commenters suggested that a total of eight specific chemicals should have higher threshold planning quantities, and four suggested that twelve should have lower threshold planning quantities. In addition one commenter suggested that substances used in foods, food additives, color additives, drugs, cosmetics or any substance used in personal, family or household products should be raised to 5,000 pounds, and another suggested that two pounds for pesticides is too low.

Two of the chemicals suggested for reassignment to higher threshold planning quantities are solids and would be subject to the conditions for solids as discussed above. The data used for calculating threshold planning quantities has been reviewed, and threshold planning quantities were recalculated as appropriate. Threshold planning quantities were reassigned based upon new data received by EPA showing different physical properties or toxicity levels. The threshold planning quantity was reduced for 36 substances based on updated acute toxicity data. For the same reason, 12 chemicals have higher threshold planning quantities. These reassignments are noted in the list and are discussed in the technical support documents available in the public docket.

Some factors mentioned by commenters for consideration in lowering the assigned threshold planning quantities included vapor pressure and toxicity, both of which are included in the present calculation. In addition, commenters suggested reassignment based on reactivity. The Agency has considered reactivity on an individual basis. Several reactive chemicals were assigned threshold planning quantities lower than their calculated values following individual review. Reactivity is also considered in determining whether the threshold planning quantity for solids which are not powdered, dissolved or liquefied should become 10,000 pounds. For certain reactive solids, the threshold planning quantity does not increase to 10,000 pounds even if the solid is not in powdered form.

b. *Change in TPQ for Nickel Carbonyl.* Several commenters suggested that the "any quantity" threshold planning quantity for nickel carbonyl should not be used because of the level of detectability and compliance questions that may arise. Further, the "any quantity" level gives a misleading impression of the actual hazard of the substance as compared to other extremely hazardous substances.

After review of the comments and evaluation of additional information on nickel carbonyl, the Agency has decided to assign nickel carbonyl to a newly established one-pound TPQ category along with two other chemicals with similar ranking. The Agency continues to recognize the higher toxicity of nickel carbonyl and the two other chemicals as compared to all other substances on the list by placing them in the lowest TPQ category established by this rule. Further, the assignment of nickel carbonyl to the one-pound category is further supported by taking into consideration its relative instability in air. The reassignment will also eliminate any possible confusion with respect to compliance.

c. *Relationship Between EPA's Threshold Planning Quantities and Other Similar Standards.* One commenter took issue with the TPQ values assigned to the chemicals, suggesting that communities would implicitly rank the chemical for hazard potential solely on the basis of the TPQ value and without regard to handling or transport considerations. EPA intends the TPQ values assigned to materials in the rule to apply to potential nonambient conditions as may occur at fixed facilities. It should be noted that during transportation, the assumption of non-ambient conditions would not frequently apply and that many transported substances may meet existing hazard class definitions of DOT and therefore be currently subject to existing regulations contained in Title 49 of the Code of Federal Regulations (49 CFR). All SARA section 302 substances will be covered when listed under section 103 of CERCLA. Further elaboration of special considerations for chemicals in transit is covered by technical guidance documents published by DOT.

Another commenter said that their State system differed in the threshold planning quantities set and suggested EPA adopt their system. This State has adopted storage thresholds of 55 gallons of any liquid, 200 cubic feet of any gas, and 500 pounds of any solid. These State-adopted storage thresholds provide virtually no distinction among chemicals for differences in either toxicity or ability to become airborne. Additionally, no facility would be required to notify the State commission or the local planning committee unless the facility contained a minimum of approximately 500 pounds of any extremely hazardous substance. The Agency believes that these threshold quantities would not be sufficiently conservative for many chemicals and overly conservative for other chemicals. Therefore, the Agency believes that the threshold planning quantities published today are more appropriate since they take into account the relative toxicities of the extremely hazardous substances and their ability to become airborne. As a result, the TPQs range from one pound to 10,000 pounds and trigger reporting in a manner that is more consistent with the potential hazards these chemicals are likely to pose.

d. *Relationship Between RQ Values and TPQ Values.* Several commenters expressed concern that a number of

substances on the extremely hazardous substances list had RQ levels under CERCLA that exceeded the TPQ values and therefore emergency planning would be required for quantities of chemicals that would not require notification under the RQ reporting rules. In the interim final rule, the Agency acknowledged these inconsistencies and agrees with commenters who argued that the TPQ should not be lower than the RQ for the same substance.

In response to these concerns, the Agency has taken several actions. First, in a separate rulemaking under CERCLA section 102, the Agency has already proposed lowering the RQ values of seven of these chemicals. Second, as discussed elsewhere in this rule, changes in the TPQ quantitative categories and the reassignment of TPQ values based on reevaluation of the toxicity data has resulted in elimination of inconsistencies for seven other chemicals. Third, seven of the substances are solids which have been assigned TPQ values of 10,000 pounds unless they meet special conditions regarding physical form or chemical properties. Solids in solution, in molten form, of a particle size of 100 microns or less, or of a highly reactive nature revert to the lower TPQ values. Fourth, the Agency is currently reviewing additional information on five other chemicals and plans to propose revisions of their RQ values based on this new information. Finally, EPA intends to resolve the two remaining inconsistencies by adjusting the RQs of the substances as part of a proposed rule later this year. In that rulemaking, EPA will designate the remaining extremely hazardous substances as CERCLA hazardous substances under CERCLA Section 102 and revise the one pound statutory RQs for the extremely hazardous substances.

3. Threshold Planning Quantities for Mixtures, Solutions, or Formulations.

The interim final rule included a one percent de minimis limit of the extremely hazardous substances in mixtures, solutions, or formulations for purposes of determining quantities applicable to the threshold planning quantities.

A number of commenters supported the idea of a percentage limit for calculating threshold planning quantities, and most of these supported the one percent mixture decision. Certain commenters thought that the one percent minimum level should be raised or that specific test results should be used or that the DOT methodology for the applicable concentration for reportable quantities be used. (50 FR 13464, April 4, 1985). One commenter suggested that the one percent level employed by Occupational Safety and Health Administration (OSHA) for carcinogens should be included.

The concentration of a chemical in a mixture that is associated with a potential hazard depends upon the type of toxicity concern. The commenters, for example, refer to OSHA's use of a level of 0.1 percent as a concern cut-off level for a carcinogen in a mixture. Regarding the acute toxicity concerns of the extremely hazardous substances listed in this rule, however, EPA believes that the release of an amount equal to the threshold planning quantity of the substance at concentrations of less than one percent is not likely to give rise to a concentration equal to the level of concern off-site. Therefore, the Agency believes that the one percent de minimis rule is appropriate for purposes of emergency planning.

Alloys, amalgams, or polymers are not considered mixtures for the purpose of this rule because unlike simple mixtures, their properties are demonstrably different from those of their components; the reporting of alloys and amalgams is not required unless they are specifically listed. In evaluating whether to notify for mixtures, facility owners or operators should compare the appropriate threshold planning quantity with the actual amount of the extremely hazardous substance present in the mixture. For example, if the TPQ threshold for a given chemical on the list is 100 pounds and that chemical is 20 percent by weight of a mixture, notification would be necessary if 500 pounds or more of that mixture is present at a facility.

When considering potential hazards specifically from airborne releases it is unlikely, even assuming large releases of a mixture, that concentrations of less than one percent will generate severe airborne exposure levels of the toxic component off-site. Conversely, it is not deemed to be a precedent to raise the TPQ determination limit of any extremely hazardous substance in a mixture to a level greater than one percent. Therefore, the Agency has decided to retain the one percent minimum for the evaluation of all mixtures, solutions, or formulations containing extremely hazardous substances for section 302 planning purposes.

For emergency release notification, there is no de minimis quantity under either CERCLA section 103 or SARA section 304. When determining if notification is required for a release of mixtures and solutions containing extremely hazardous substances or hazardous substances, the Agency applies the weight percent calculations as is illustrated above for SARA section 302 calculations. (The "mixture rule" for CERCLA section 103 is further explained in 50 FR 13463 (April 14, 1985), where the regulation for mixtures and solutions is outlined in CERCLA rulemaking pertaining to RQ release reporting.)

G. Reportable Quantities

Several commenters questioned the reportable quantities set either under the one pound level established under section 304 of SARA or levels set under section 102 of CERCLA. The one pound statutory RQs under SARA section 304 are for those substances not already listed as CERCLA "hazardous substances" under section 101(14) and subject to notification requirements under section 103. The extremely hazardous substances which are not CERCLA hazardous substances will be designated under CERCLA section 102 as part of a rulemaking later this year at which time the statutory RQs will also be adjusted. Comments concerning RQs for CERCLA notification under section 103 will be considered and addressed in the ongoing CERCLA rulemakings to adjust RQs.

H. Miscellaneous

1. Trade Secret/Confidentiality Issues

Several commenters raised questions and concerns regarding trade secret information. With regard to section 304 notification and chemical identity of an extremely hazardous substance, one commenter wants to provide the same information that he/she has provided on the MSDS. However, EPA believes that the actual chemical name must be given along with the trade name in the section 304 release notification. This specific chemical name will be of use to the health professional while the trade name may not be of such use. In any case, section 304 emergency notification is not subject to Title III trade secret protection.

One commenter indicated that EPA should define a trade secret more clearly and provide for the protection of such secrets when they are necessary in the contingency plan. EPA agrees. Trade secret regulations regarding trade secret claims and other confidentiality issues will be issued by EPA in the future. These regulations will provide that specific chemical identity may be claimed confidential at the time of the contingency planning. The chemical identity must be submitted to EPA along with a substantiation explaining why

the chemical identity is trade secret. These procedures will be more fully explained in the future trade secret regulations.

One commenter stated that regulations are necessary for the determination of the validity of the local planning committee request for information which a facility believes is confidential before EPA issues a compliance order. EPA believes that questions concerning the validity of local requests are largely to be handled at the State and local level, except for claims of trade secrets concerning specific chemical identity. Trade secrets regulations will be issued later this year. The Agency does not believe further regulation is necessary in this area.

One commenter believes that the guidance documents should discourage the collection by localities of confidential information and should specify when confidential information is justified. Another commenter believes that EPA should more carefully define "emergency response plan" to exclude confidential information given to the local committee as background material. Section 322 is quite specific about what information collected under Title III can be withheld as confidential. Under Title III, only the specific chemical identity can be withheld, in accordance with the procedures set forth under section 322. Because no confidentiality issues other than those to be addressed in the forthcoming section 322 regulations are relevant under Title III, EPA does not believe further guidance is necessary at this time.

ii. Enforcement

One commenter believes that EPA should issue procedures for the issuance of compliance orders. EPA agrees that such procedures should be developed in the future. The Agency will develop such procedures either by regulation or guidance and may adopt procedures for the issuance of such orders that have been developed under other environmental laws.

One commenter stated that although he believes that notification to emergency personnel of releases that endanger the health of community residents is necessary, EPA is not authorized to penalize the failure to notify with civil and criminal penalties. He also wrote that this requirement to notify is currently accomplished on a voluntary basis, as recommended by the Chemical Manufacturer's Association. With respect to EPA's authority to assess penalties or seek criminal and civil penalties for owners' or operators' failure to notify under section 304, EPA disagrees. Section 325(b) provides for civil, administrative and criminal penalties for enforcement of emergency notification requirements under section 304.

Another commenter felt that since section 304 imposes penalties for failure to "immediately" notify State and local authorities of a release of an extremely hazardous substance, it is implicit that this assumes "immediately after the releaser becomes aware" of the existence of a release. EPA agrees that a knowledge requirement is implicit under section 304. However, if the facility owner/operator should have known of the release, then the fact that he or she was unaware of the release will not relieve the owner/operator from the duty to provide release notification. EPA believes no change is needed in the regulatory language.

V. Relationship to CERCLA

A. Relationship of Title III to The National Contingency Plan

Although Title III is a free-standing Title within SARA, it is closely related to preparation and response activities under CERCLA.

For that reason, the interim final rule was placed in a new Subpart I within the existing National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR 300). However, due to differences in authority, trade secret protection and key definitions, and because of the need for simplicity and accessibility for a wide range of users, EPA has recodified the November 17 1986 provisions. Today's final rule republishes the emergency planning and notification requirements, as part of 40 CFR 355. All of the Title III provisions will now be located apart from the NCP in Parts 355 et seq. of Title 40 of the Code of Federal Regulations.

B. Relationship of This Rule to CERCLA Section 103 Reporting Requirements

Under section 103 of CERCLA, any person in charge of a facility at which there is a release of a hazardous substance, as defined in CERCLA section 101(14), equal to or in excess of its reportable quantity must report immediately to the National Response Center. The National Response Center will then alert the appropriate federal emergency response personnel of the release. This notification includes transportation incidents and releases from vessels as well as fixed-facility emergencies.

The notification to the State emergency response commission under section 302 is not triggered by a release incident, but rather by the presence of certain quantities of an extremely hazardous substance at a facility. No release or event of any kind is required for a section 302 report. This notification is an initial action in a process that culminates in the development of community emergency response plans. Section 304 in contrast, establishes reporting requirements similar to CERCLA section 103 release reporting. However, instead of requiring notification only to the National Response Center for CERCLA substances when certain quantities of these chemicals are released, facilities must under section 304 also notify State and local emergency response officials of these releases, and of releases of extremely hazardous substances which have not been designated as CERCLA hazardous substances. Note that the reporting requirements under section 304 are *in addition to*, not in replacement of, notification to the National Response Center under CERCLA section 103.

VI. Effective Dates

As indicated in the opening section of this preamble, this rule is effective on May 17 1987 for purposes of facility planning notification and 30 days after publication for release notification requirements. (Local release notifications, however, do not need to be made until August 17 1987 or when the local committees are established, if earlier.)

EPA established a May 17 1987 effective date for the facility planning notifications under § 355.30, rather than providing 30 days between publication and effective data as required under section 553(d) of the Administrative Procedure Act (APA) because section 302 of SARA requires notification to be made by May 17 The primary purpose of the revised final rule is to finalize the list of substances and TPQs that trigger the May 17 notification. In order for all facilities affected by these requirements to be certain of whether or not they must provide the statutory notification by the date on which such notification must be made, EPA has made the effective date of the rule coincident with the statutory date, even if this rule is published less than 30 days in advance of that date, as would otherwise be required by section 553(d). EPA believes that the confusion generated by a later effective date constitutes "good cause" for suspension of the 30 day requirement, as provided under section 553(d)(3) of the APA.

VII. Regulatory Analyses

A. Regulatory Impact Analysis

Executive Order 12291 requires each federal agency to determine if a

regulation is a "major" rule as defined by the order and to prepare and consider a Regulatory Impact Analysis (RIA) in connection with every major rule. Under E.O. 12291, a "major" rule is one that is likely to result in (1) an annual adverse (cost) effect in the economy of $100 million, (2) a major increase in costs or prices for consumers, individual industries, federal, State, or local government, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises in domestic or export markets. The Agency has decided that, although the changes represented in this revised final rule are minor relative to the interim final rule, these two rules should be considered together as a "major" rule for the purposes of E.O. 12291. This decision is based on the fact that the interim final and revised final are essentially a single rulemaking effort under section 302(a)(3) of SARA and that EPA was unable to prepare a regulatory impact analysis for the interim final rule, as explained in more detail below.

Today's rule is a revision of the interim final rule published November 17 1986. Because of the short time frame for development of that rule (30 days from enactment of SARA), EPA was unable to conduct a regulatory analysis prior to publication of that final rule. However, in the interim final rule, EPA stated that such analysis would be completed as part of the revised final rule published today. Accordingly, EPA has prepared an RIA to assess the economic impact of the statutory and regulatory requirements codified in the interim final rule on the regulated community (i.e., facilities manufacturing, processing, using or storing one or more extremely hazardous substances in excess of the threshold planning quantity), as well as State and local government entities. The costs summarized here are presented in detail in the *Regulatory Impact Analysis in Support of Rulemaking Under Sections 302, 303, and 304 of the Superfund Amendments and Reauthorization Act of 1986.* This document is available in the public docket for this rulemaking. The revised final rule published today has just minor revisions resulting in small incremental costs from the interim final rule and thus the RIA is applicable to both rules.

The costs associated with the interim final regulation result directly from the requirements spelled out by Congress in sections 302, 303, and 304 of SARA. Congress explicitly mandated, among other things, the setting up of State emergency response commissions and local emergency planning committees, the development of emergency response plans, the naming of facility coordinators, and the reporting of certain releases of extremely hazardous substances. The regulatory option chosen by EPA reduced to some extent the statutory reporting burden on the regulated community and the administrative burden on State and local governments by adopting many threshold planning quantities above the statutory default level of two pounds and by clarifying the statutory requirements.

For the chosen regulatory approach, total regulated community costs attributable to sections 302 and 303 are expected to be primarily one-time costs, because they deal with statute and rule familiarization, and compliance determination. Section 302 costs consist of an initial notification to the State emergency response commission, and the development of tracking systems for extremely hazardous substances. Most of these types of costs are reasonably expected to occur in the first year (1987) that the statute requirements are in effect. Under section 303, facilities must designate an emergency response coordinator and engage in ongoing activities related to emergency planning and response. Under section 304, facilities must report certain releases of extremely hazardous substances to various government entities.

A total of 5.6 million facilities will need to become familiar with the statutory and regulatory requirements and make a compliance determination because they may use or store chemicals that are on the extremely hazardous substances list. Of these, 1.5 million are expected to have at least one extremely hazardous substance in excess of the statutory two pound threshold planning quantity.

Costs for statute and rule familiarization to facilities for sections 302 and 304 are expected to total $353 million in 1987 Section 302 baseline costs (in the absence of EPA's revised threshold planning quantities) are estimated to be $375 million for facilities, for a total cost of $728 million in 1987 (1986 dollars).

Costs for emergency planning activities (Section 303) by facilities are expected to be incurred primarily in 1988 at a total of $416 million, assuming that no planning of this type has occurred. Therefore this is an upper bound estimate for the particular activities costed. Emergency release notification costs (Section 304) are estimated to be $81 million for facilities in the first two years.

The Agency currently estimates that by increasing the TPQs on most of the extremely hazardous substances from the statutory level of two pounds, facilities will realize a reduction in burden of $70 million from the statutory requirements to the interim final rule because those facilities with small quantities of substances will not have to notify authorities and participate in emergency planning. The methodology used for this analysis did not allow for a detailed comparison to be made between the interim final and revised final rules. However, the minor revisions made by today's final rule should result in only small incremental costs from the interim final rule.

EPA believes that the approach adopted in the interim final rule and revised final rule will benefit the regulated community, State and local governments, and the general public. By raising the threshold planning quantities over the two-pound statutory level for each substance, the Agency has reduced the reporting burden for the regulated community and government entities without significantly increasing the risk to the general public. The adopted approach will facilitate the setting of priorities of potential chemical hazards on the part of facilities and local emergency planning committees. Such prioritization is an essential component of emergency response planning.

Government costs imposed by the statutory requirements under the emergency planning provisions of Title III include costs borne by State emergency response commissions and local emergency planning committees. This analysis does not attempt to analyze the Section 301 cost of establishing State emergency response commissions and local emergency planning committees. Instead, those costs associated with the statutory requirements for receipt of information and planning are estimated even though they do not appear in the final rule. For local emergency planning committees, the major costs, like those for facilities, will occur in 1987 and 1988. The costs for local planning committees include statute and rule familiarization under section 302 and the preparation of a local emergency plan under section 303. These costs for local emergency planning committees total $80 million. Major costs for State emergency response commissions include the receipt and distribution of facility notifications, and the review of local emergency plans. These costs estimated for State commissions total $1.8 million

in 1987 and 1988. Both the State and local authorities will design data systems for the storage of release information under section 304. The initial startup and ongoing costs for receiving and storing data related to emergency release notifications are expected to be $27 million in 1987 and 1988 for both the State and local authorities. Continuing costs for both State and local governments include: reviewing and storing information under sections 302 and 304, and the updating and review of emergency plans under section 303. However, the Agency does not have enough data or judgment to estimate these ongoing costs for sections 302 and 303.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that an analysis be performed for all rules that are likely to have a "significant impact on a substantial number of small entities" EPA has performed a preliminary small business analysis. The small business definition used for the analysis is any facility with ten or less employees. Based on this analysis, I hereby certify that this regulation will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The reporting and notification requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980. 44 U.S.C. 35501, et seq. and have been assigned OMB control number 2050-0046.

VIII. Supporting Information

List of Subjects 40 CFR Parts 300 and 355

Chemicals, hazardous substances, extremely hazardous substances, intergovernmental relations, community right-to-know, Superfund Amendments and Reauthorization Act, air pollution control, chemical accident prevention, chemical emergency preparedness, threshold planning quantity, reportable quantity, community emergency response plan, contingency planning, reporting and recordkeeping requirements.

Dated: April 17, 1987.

Lee M. Thomas,

Administrator.

For the reasons set out in the Preamble, Title 40 of the Code of Federal Regulations is amended as follows:

1. The title of Subchapter J of Title 40 is revised to read as follows:

SUBCHAPTER J—SUPERFUND, EMERGENCY PLANNING, AND COMMUNITY RIGHT-TO-KNOW PROGRAMS

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

2. The authority citation for Part 300 is revised to read as follows:

Authority: Sec. 105, Pub. L. 98-510, 94 Stat. 2764, 42 U.S.C. 9505 and Sec. 311(c)(2), Pub. L. 92-500, as amended, 86 Stat. 865, 33 U.S.C. 1321(c)(2); E.O. 12316, 46 FR 42237 (August 20, 1981); E.O. 11735, 38 FR 21243 (August 1973).

§§ 300.91-300.95 (Subpart I) [Removed]

3. Part 300 is amended by removing Subpart I consisting of §§ 300.91 through 300.95.

Appendices D and E [Removed]

4. Part 300 Appendices D and E are removed.

5. Subchapter J of Title 40 of the Code of Federal Regulations is amended by adding a new Part 355 to read as follows:

PART 355—EMERGENCY PLANNING AND NOTIFICATION

Sec.

Authority: Sections 302, 303, 304, 325, 328 and 329 of the Emergency Planning and Community Right-to-Know Act of 1986, Pub. L. 99-499, 100 Stat. 1613, 42 U.S.C. § 11002, 11003, 11004, 11025, 11028, and 11029 (1986).

§ 355.10 Purpose.

This regulation establishes the list of extremely hazardous substances, threshold planning quantities, and facility notification responsibilities necessary for the development and implementation of State and local emergency response plans.

§ 355.20 Definitions.

Act means the Superfund Amendments and Reauthorization Act of 1986.

CERCLA means the Comprehensive Emergency Response, Compensation and Liability Act of 1980, as amended.

CERCLA Hazardous Substance means a substance on the list defined in Section 101(14) of CERCLA.

Note.—Listed CERCLA hazardous substances appear in Table 302.4 of 40 CFR Part 302.

Commission means the emergency response commission, or the Governor if there is no commission, for the State in which the facility is located.

Environment includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

Extremely Hazardous Substance means a substance listed in Appendices A and B of this Part.

Facility means all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person). For purposes of emergency release notification, the term includes motor vehicles, rolling stock, and aircraft.

Hazardous Chemical means any hazardous chemical as defined under § 1910.1200(c) of Title 29 of the Code of Federal Regulations, except that such term does not include the following substances:

(1) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

(2) Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.

(3) Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public.

(4) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.

(5) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

Mixture means a heterogenous association of substances where the various individual substances retain their identities and can usually be separated by mechanical means. Includes solutions or compounds but does not include alloys or amalgams.

Person means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping,

leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous substance, or CERCLA hazardous substance.

Reportable Quantity means, for any CERCLA hazardous substance, the reportable quantity established in Table 302.4 of 40 CFR Part 302, for such substance, for any other substance, the reportable quantity is one pound.

Threshold Planning Quantity means, for a substance listed in Appendices A and B, the quantity listed in the column "threshold planning quantity" for that substance.

§ 355.30 Emergency planning.

(a) *Applicability.* The requirements of this section apply to any facility at which there is present an amount of any extremely hazardous substance equal to or in excess of its threshold planning quantity, or designated, after public notice and opportunity for comment, by the Commission or the Governor for the State in which the facility is located. For purposes of this section, an "amount of any extremely hazardous substance" means the total amount of an extremely hazardous substance present at any one time at a facility at concentrations greater than one percent by weight, regardless of location, number of containers, or method of storage.

(b) *Emergency planning notification.* The owner or operator of a facility subject to this section shall provide notification to the Commission that it is a facility subject to the emergency planning requirements of this Part. Such notification shall be provided: on or before May 17 1987 or within sixty days after a facility first becomes subject to the requirements of this section, whichever is later.

(c) *Facility emergency coordinator.* The owner or operator of a facility subject to this section shall designate a facility representative who will participate in the local emergency planning process as a facility emergency response coordinator. The owner or operator shall notify the local emergency planning committee (or the Governor if there is no committee) of the facility representative on or before September 17 1987 or 30 days after establishment of a local emergency planning committee, whichever is earlier.

(d) *Provision of information.* (1) The owner or operator of a facility subject to this section shall inform the local emergency planning committee of any changes occurring at the facility which may be relevant to emergency planning.

(2) Upon request of the local emergency planning committee, the owner or operator of a facility subject to this section shall promptly provide to the committee any information necessary for development or implementation of the local emergency plan.

(e) *Calculation of TPQs for solids and mixtures.* (1) If a container or storage vessel holds a mixture or solution of an extremely hazardous substance, then the concentration of extremely hazardous substance, in weight percent (greater than 1%), shall be multiplied by the mass (in pounds) in the vessel to determine the actual quantity of extremely hazardous substance therein.

(2)(i) Extremely hazardous substances that are solids are subject to either of two threshold planning quantities as shown on Appendices A and B (i.e., 500/10,000 pounds). The lower quantity applies only if the solid exists in powdered form and has a particle size less than 100 microns; or is handled in solution or in molten form; or meets the criteria for a National Fire Protection Association (NFPA) rating of 2, 3 or 4 for reactivity. If the solid does not meet any of these criteria, it is subject to the upper (10,000 pound) threshold planning quantity as shown in Appendices A and B.

(ii) The 100 micron level may be determined by multiplying the weight percent of solid with a particle size less than 100 microns in a particular container by the quantity of solid in the container.

(iii) The amount of solid in solution may be determined by multiplying the weight percent of solid in the solution in a particular container by the quantity of solution in the container.

(iv) The amount of solid in molten form must be multipled by 0.3 to determine whether the lower threshold planning quantity is met.

(Approved by the Office of Management and Budget under the control number 2050-0046)

§ 355.40 Emergency release notification.

(a) *Applicability.* (1) The requirements of this section apply to any facility: (i) at which a hazardous chemical is produced, used or stored and (ii) at which there is release of a reportable quantity of any extremely hazardous substance or CERCLA hazardous substance.

(2) This section does not apply to: (i) Any release which results in exposure to persons solely within the boundaries of the facility. (ii) Any release which is a "federally permitted release" as defined in section 101 (10) of CERCLA, (iii) any release which is "continuous," as defined under section 103 (f) of CERCLA (except for "statistically significant increases" as defined under section 103(e) of CERCLA and (v) any release exempt from CERCLA section 103(a) reporting under section 101(22) of CERCLA.

Note to paragraph (a).—Releases of CERCLA hazardous substances are subject to the release reporting requirements of CERCLA section 103, codified at 40 CFR Part 302, in addition to the requirements of this Part.

(b) *Notice requirements.* (1) The owner or operator of a facility subject to this section shall immediately notify the community emergency coordinator for the local emergency planning committee of any area likely to be affected by the release and the State emergency response commission of any State likely to be affected by the release. If there is no local emergency planning committee, notification shall be provided under this section to relevant local emergency response personnel.

(2) The notice required under this section shall include the following to the extent known at the time of notice and so long as no delay in notice or emergency response results:

(i) The chemical name or identity of any substance involved in the release.

(ii) An indication of whether the substance is an extremely hazardous substance.

(iii) An estimate of the quantity of any such substance that was released into the environment.

(iv) The time and duration of the release.

(v) The medium or media into which the release occurred.

(vi) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.

(vii) Proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the community emergency coordination pursuant to the emergency plan).

(viii) The names and telephone number of the person or persons to be contacted for further information.

(3) As soon as practicable after a release which requires notice under (b)(1) of this section, such owner or operator shall provide a written follow-up emergency notice (or notices, as more information becomes available) setting forth and updating the information required under paragraph (b)(2) of this section, and including additional information with respect to:

(i) Actions taken to respond to and contain the release,

(ii) Any known or anticipated acute or chronic health risks associated with the release, and,

(iii) Where appropriate, advice regarding medical attention necessary for exposed individuals.

(4) Exceptions. (i) Until April 30, 1988, in lieu of the notice specified in paragraph (b)(2) of this section, any owner or operator of a facility subject to this section from which there is a release of a CERCLA hazardous substance which is not an extremely hazardous substance and has a statutory reportable quantity may provide the same notice required under CERCLA section 103(a) to the local emergency planning committee.

(ii) An owner or operator of a facility from which there is a transportation-related release may meet the requirements of this section by providing the information indicated in paragraph (b)(2) to the 911 operator, or in the absence of a 911 emergency telephone number, to the operator. For purposes of this paragraph, a "transportation-related release" means a release during transportation, or storage incident to transportation if the stored substance is moving under active shipping papers and has not reached the ultimate consignee.

(Approved by the Office of Management and Budget under the control number 2050-0046)

§ 355.50 Penalties.

(a) *Civil penalties.* Any person who fails to comply with the requirements of § 355.40 shall be subject to civil penalties of up to $25,000 for each violation in accordance with section 325(b)(1) of the Act.

(b) *Civil penalties for continuing violations.* Any person who fails to comply with the requirements of § 355.40 shall be subject to civil penalties of up to $25,000 for each day during which the violation continues, in accordance with section 325(b)(2) of the Act. In the case of a second or subsequent violation, any such person may be subject to civil penalties of up to $75,000 for each day the violation continues, in accordance with section 325(b)(2) of the Act.

(c) *Criminal penalties.* Any person who knowingly and willfully fails to provide notice in accordance with § 355.40 shall, upon conviction, be fined not more than $25,000 or imprisoned for not more than two (2) years, or both (or, in the case of a second or subsequent conviction, shall be fined not more than $50,000 or imprisoned for not more than five (5) years, or both) in accordance with section 325(b)(4) of the Act.

APPENDIX A.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES

[Alphabetical Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
75-86-5	Acetone Cyanohydrin		10	1,000
1752-30-3	Acetone Thiosemicarbazide	e	1	1,000/10,000
107-02-8	Acrolein		1	500
79-06-1	Acrylamide	d, l	5,000	1,000/10,000
107-13-1	Acrylonitrile	d, l	100	10,000
814-68-6	Acrylyl Chloride	e, h	1	100
111-69-3	Adiponitrile	e, l	1	1,000
116-06-3	Aldicarb	c	1	100/10,000
309-00-2	Aldrin	d	1	500/10,000
107-18-6	Allyl Alcohol		100	1,000
107-11-9	Allylamine	e	1	500
20859-73-8	Aluminum Phosphide	b	100	500
54-62-6	Aminopterin	e	1	500/10,000
78-53-5	Amiton	e	1	500
3734-97-2	Amiton Oxalate	e	1	100/10,000
7664-41-7	Ammonia	l	100	500
16919-58-7	Ammonium Chloroplatinate	a, e	1	10,000
300-62-9	Amphetamine	e	1	1,000
62-53-3	Aniline	d, l	5,000	1,000
88-05-1	Aniline, 2,4,6-Trimethyl-	e	1	500
7783-70-2	Antimony Pentafluoride	e	1	500
1397-94-0	Antimycin A	c, e	1	1,000/10,000
86-88-4	ANTU		100	500/10,000
1303-28-2	Arsenic Pentoxide	d	5,000	100/10,000
1327-53-3	Arsenous Oxide	d, h	5,000	100/10,000
7784-34-1	Arsenous Trichloride	d	5,000	500
7784-42-1	Arsine	e	1	100
2642-71-9	Azinphos-Ethyl	e	1	100/10,000
86-50-0	Azinphos-Methyl		1	10/10,000
1405-87-4	Bacitracin	a, e	1	10,000
98-87-3	Benzal Chloride	d	5,000	500
98-16-8	Benzenamine, 3-(Trifluoromethyl)-	e	1	500
100-14-1	Benzene, 1-(Chloromethyl)-4-Nitro-	e	1	500/10,000
98-05-5	Benzenearsonic Acid	e	1	10/10,000
98-09-9	Benzenesulfonyl Chloride	a	100	10,000
3615-21-2	Benzimidazole, 4,5-Dichloro-2-(Trifluoromethyl)-	e, g	1	500/10,000
98-07-7	Benzotrichloride	d	1	100
100-44-7	Benzyl Chloride	d	100	500
140-29-4	Benzyl Cyanide	e, h	1	500

APPENDIX A.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[Alphabetical Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
15271-41-7	Bicyclo[2.2.1]Heptane-2-Carbonitrile, 5-Chloro-6-((((Methylamino)Carbonyl)Oxy)Imino)-(1s-(1-alpha, 2-beta, 4-alpha, 5-alpha, 6E))-	e	1	500/10,000
534-07-6	Bis(Chloromethyl) Ketone	e	1	10/10,000
4044-65-9	Bitoscanate	e	1	500/10,000
10294-34-5	Boron Trichloride	e	1	500
7637-07-2	Boron Trifluoride	e	1	500
353-42-4	Boron Trifluoride Compound With Methyl Ether (1:1)	e	1	1,000
28772-56-7	Bromadiolone	e	1	100/10,000
7726-95-6	Bromine	e, l	1	500
106-99-0	Butadiene	a, e	1	10,000
109-19-3	Butyl Isovalerate	a, e	1	10,000
111-34-2	Butyl Vinyl Ether	a, e	1	10,000
1306-19-0	Cadmium Oxide	e	1	100/10,000
2223-93-0	Cadmium Stearate	c, e	1	1,000/10,000
7778-44-1	Calcium Arsenate	d	1,000	500/10,000
8001-35-2	Camphechlor	d	1	500/10,000
56-25-7	Canthandin	e	1	100/10,000
51-83-2	Carbachol Chloride	e	1	500/10,000
26419-73-8	Carbamic Acid, Methyl- 0-(((2,4-Dimethyl-1, 3-Dithiolan-2-yl)Methylene)Amino)-	e	1	100/10,000
1563-66-2	Carbofuran		10	10/10,000
75-15-0	Carbon Disulfide	l	100	10,000
786-19-6	Carbophenothion	e	1	500
2244-16-8	Carvone	a, e	1	10,000
57-74-9	Chlordane	d	1	1,000
470-90-6	Chlorfenvinfos	e	1	500
7782-50-5	Chlorine		10	100
24934-91-6	Chlormephos	e	1	500
999-81-5	Chlormequat Chloride	e, h	1	100/10,000
107-20-0	Chloroacetaldehyde	a	1,000	10,000
79-11-8	Chloroacetic Acid	e	1	100/10,000
107-07-3	Chloroethanol	e	1	500
627-11-2	Chloroethyl Chloroformate	e	1	1,000
67-66-3	Chloroform	d, l	5,000	10,000
542-88-1	Chloromethyl Ether	d, h	1	100
107-30-2	Chloromethyl Methyl Ether	c, d	1	100
3691-35-8	Chlorophacinone	e	1	100/10,000
1982-47-4	Chloroxuron	e	1	500/10,000
21923-23-9	Chlorthiophos	e, h	1	500
10025-73-7	Chromic Chloride	e	1	1/10,000
7440-48-4	Cobalt	a, e	1	10,000
62207-76-5	Cobalt, ((2,2'-(1,2-Ethanediylbis (Nitrilomethylidyne))Bis(6-Fluorophenolato))(2-)-N,N',O,O')-,.	e	1	100/10,000
10210-68-1	Cobalt Carbonyl	e, h	1	10/10,000
64-86-8	Colchicine	e, h	1	10/10,000
117-52-2	Coumafuryl	a, e	1	10,000
56-72-4	Coumaphos		10	100/10,000
5836-29-3	Coumatetralyl	e	1	500/10,000
95-48-7	Cresol, o-	d	1,000	1,000/10,000
535-89-7	Crimidine	e	1	100/10,000
4170-30-3	Crotonaldehyde		100	1,000
123-73-9	Crotonaldehyde, (E)-		100	1,000
506-68-3	Cyanogen Bromide		1,000	500/10,000
506-78-5	Cyanogen Iodide	e	1	1,000/10,000
2636-26-2	Cyanophos	e	1	1,000
675-14-9	Cyanuric Fluoride	e	1	100
66-81-9	Cycloheximide	e	1	100/10,000
108-91-8	Cyclohexylamine	e, l	1	10,000
287-92-3	Cyclopentane	a, e	1	10,000
633-03-4	C. I. Basic Green 1	a, e	1	10,000
17702-41-9	Decaborane(14)	e	1	500/10,000
8065-48-3	Demeton	e	1	500
919-86-8	Demeton-S-Methyl	e	1	500
10311-84-9	Dialifor	e	1	100/10,000
19287-45-7	Diborane	e	1	100
84-74-2	Dibutyl Phthalate	a	10	10,000
8023-53-8	Dichlorobenzalkonium Chloride	a, e	1	10,000
111-44-4	Dichloroethyl Ether	d	1	10,000

APPENDIX A.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[Alphabetical Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
149-74-6	Dichloromethylphenylsilane	e	1	1,000
62-73-7	Dichlorvos		10	1,000
141-66-2	Dicrotophos	e	1	100
1464-53-5	Diepoxybutane	d	1	500
814-49-3	Diethyl Chlorophospate	e, h	1	500
1642-54-2	Diethylcarbamazine Citrate	e	1	100/10,000
93-05-0	Diethyl-p-Phenylenediamine	a,e	1	10,000
71-63-6	Digitoxin	c, e	1	100/10,000
2238-07-5	Diglycidyl Ether	e	1	1,000
20830-75-5	Digoxin	e, h	1	10/10,000
115-26-4	Dimefox	e	1	500
60-51-5	Dimethoate		10	500/10,000
2524-03-0	Dimethyl Phosphorochlordothioate	e	1	500
131-11-3	Dimethyl Phthalate	a	5,000	10,000
77-78-1	Dimethyl Sulfate	d	1	500
75-18-3	Dimethyl Sulfide	e	1	100
75-78-5	Dimethyldichlorosilane	e, h	1	500
57-14-7	Dimethylhydrazine	d	1	1,000
99-98-9	Dimethyl-p-Phenylenediamine	e	1	10/10,000
644-64-4	Dimetilan	e	1	500/10,000
534-52-1	Dinitrocresol		10	10/10,000
88-85-7	Dinoseb		1,000	100/10,000
1420-07-1	Dinoterb	e	1	500/10,000
117-84-0	Dioctyl Phthalate	a	5,000	10,000
78-34-2	Dioxathion	e	1	500
646-06-0	Dioxolane	a, e	1	10,000
82-66-6	Diphacinone	e	1	10/10,000
152-16-9	Diphosphoramide, Octamethyl-		100	100
298-04-4	Disulfoton		1	500
514-73-8	Dithiazanine Iodide	e	1	500/10,000
541-53-7	Dithiobiuret		100	100/10,000
316-42-7	Emetine, Dihydrochloride	e, h	1	1/10,000
115-29-7	Endosulfan		1	10/10,000
2778-04-3	Endothion	e	1	500/10,000
72-20-8	Endrin		1	500/10,000
106-89-8	Epichlorohydrin	d, l	1,000	1,000
2104-64-5	EPN	e	1	100/10,000
50-14-6	Ergocalciferol	c, e	1	1,000/10,000
379-79-3	Ergotamine Tartrate	e	1	500/10,000
1622-32-8	Ethanesulfonyl Chloride, 2-Chloro-	e	1	500
10140-87-1	Ethanol, 1,2-Dichloro- Acetate	e	1	1,000
563-12-2	Ethion		10	1,000
13194-48-4	Ethoprophos	e	1	1,000
538-07-8	Ethylbis(2-Chloroethyl)Amine	e, h	1	500
371-62-0	Ethylene Fluorohydrin	c, e, h	1	10
75-21-8	Ethylene Oxide	d, l	1	1,000
107-15-3	Ethylenediamine		5,000	10,000
151-56-4	Ethyleneimine	d	1	500
2235-25-8	Ethylmercuric Phosphate	a, e	1	10,000
542-90-5	Ethylthiocyanate	e	1	10,000
22224-92-6	Fenamiphos	e	1	10/10,000
122-14-5	Fenitrothion	e	1	500
115-90-2	Fensulfothion	e, h	1	500
4301-50-2	Fluenetil	e	1	100/10,000
7782-41-4	Fluorine	k	10	500
640-19-7	Fluoroacetamide	j	100	100/10,000
144-49-0	Fluoroacetic Acid	e	1	10/10,000
359-06-8	Fluoroacetyl Chloride	c, e	1	10
51-21-8	Fluorouracil	e	1	500/10,000
944-22-9	Fonofos	e	1	500
50-00-0	Formaldehyde	d,l	1,000	500
107-16-4	Formaldehyde Cyanohydrin	e, h	1	1,000
23422-53-9	Formetanate Hydrochloride	e,h	1	500/10,000
2540-82-1	Formothion	e	1	100
17702-57-7	Formparanate	e	1	100/10,000
21548-32-3	Fosthietan	e	1	500

APPENDIX A.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[Alphabetical Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
3878-19-1	Fuberidazole	e	1	100/10,000
110-00-9	Furan		100	500
13450-90-3	Gallium Trichloride	e	1	500/10,000
77-47-4	Hexachlorocyclopentadiene	d, h	1	100
1335-87-1	Hexachloronaphthalene	a, e	1	10,000
4835-11-4	Hexamethylenediamine, N,N'-Dibutyl-	e	1	500
302-01-2	Hydrazine	d	1	1,000
74-90-8	Hydrocyanic Acid		10	100
7647-01-0	Hydrogen Chloride (Gas Only)	e, l	1	500
7664-39-3	Hydrogen Fluoride		100	100
7722-84-1	Hydrogen Peroxide (Conc >52%)	e, l	1	1,000
7783-07-5	Hydrogen Selenide	e	1	10
7783-06-4	Hydrogen Sulfide	l	100	500
123-31-9	Hydroquinone	l	1	500/10,000
53-86-1	Indomethacin	a, e	1	10,000
10025-97-5	Indium Tetrachloride	a, e	1	10,000
13463-40-6	Iron, Pentacarbonyl-	e	1	100
297-78-9	Isobenzan	e	1	100/10,000
78-82-0	Isobutyronitrile	e, h	1	1,000
102-36-3	Isocyanic Acid, 3,4-Dichlorophenyl Ester	e	1	500/10,000
465-73-6	Isodrin		1	100/10,000
55-91-4	Isofluorphate	c	100	100
4098-71-9	Isophorone Diisocyanate	b, e	1	100
108-23-6	Isopropyl Chloroformate	e	1	1,000
625-55-8	Isopropyl Formate	e	1	500
119-38-0	Isoproplymethylpyrazolyl Dimethylcarbamate	e	1	500
78-97-7	Lactonitrile	e	1	1,000
21609-90-5	Leptophos	e	1	500/10,000
541-25-3	Lewisite	c, e, h	1	10
58-89-9	Lindane	d	1	1,000/10,000
7580-67-8	Lithium Hydride	b, e	1	100
109-77-3	Malononitrile		1,000	500/10,000
12108-13-3	Manganese, Tricarbonyl Methylcyclopentadienyl	e, h	1	100
51-75-2	Mechlorethamine	c, e	1	10
950-10-7	Mephosfolan	e	1	500
1600-27-7	Mercuric Acetate	e	1	500/10,000
7487-94-7	Mercuric Chloride	e	1	500/10,000
21908-53-2	Mercuric Oxide	e	1	500/10,000
108-67-8	Mesitylene	a, e	1	10,000
10476-95-6	Methacrolein Diacetate	e	1	1,000
760-93-0	Methacrylic Anhydride	e	1	500
126-98-7	Methacrylonitrile	h	1	500
920-46-7	Methacryloyl Chloride	e	1	100
30674-80-7	Methacryloyloxyethyl Isocyanate	e, h	1	100
10265-92-6	Methamidophos	e	1	100/10,000
558-25-8	Methanesulfonyl Fluoride	e	1	1,000
950-37-8	Methidathion	e	1	500/10,000
2032-65-7	Methiocarb		10	500/10,000
16752-77-5	Methomyl	h	100	500/10,000
151-38-2	Methoxyethylmercuric Acetate	e	1	500/10,000
80-63-7	Methyl 2-Chloroacrylate	e	1	500
74-83-9	Methyl Bromide	l	1,000	1,000
79-22-1	Methyl Chloroformate	d, h	1,000	500
624-92-0	Methyl Disulfide	e	1	100
60-34-4	Methyl Hydrazine		10	500
624-83-9	Methyl Isocyanate	f	1	500
556-61-6	Methyl Isothiocyanate	b, e	1	500
74-93-1	Methyl Mercaptan		100	500
3735-23-7	Methyl Phenkapton	e	1	500
676-97-1	Methyl Phosphonic Dichloride	b, e	1	100
556-64-9	Methyl Thiocyanate	e	1	10,000
78-94-4	Methyl Vinyl Ketone	e	1	10
502-39-6	Methylmercuric Dicyanamide	e	1	500/10,000
75-79-6	Methyltrichlorosilane	e, h	1	500
1129-41-5	Metolcarb	e	1	100/10,000
7786-34-7	Mevinphos		10	500

APPENDIX A.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[Alphabetical Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
315-18-4	Mexacarbate		1,000	500/10,000
50-07-7	Mitomycin C	d	1	500/10,000
6923-22-4	Monocrotophos	e	1	10/10,000
2763-96-4	Muscimol	a, h	1,000	10,000
505-60-2	Mustard Gas	e, h	1	500
7440-02-0	Nickel	a, d	1	10,000
13463-39-3	Nickel Carbonyl	d	1	1
54-11-5	Nicotine	c	100	100
65-30-5	Nicotine Sulfate	e	1	100/10,000
7697-37-2	Nitric Acid		1,000	1,000
10102-43-9	Nitric Oxide	c	10	100
98-95-3	Nitrobenzene	l	1,000	10,000
1122-60-7	Nitrocyclohexane	e	1	500
10102-44-0	Nitrogen Dioxide		10	100
62-75-9	Nitrosodimethylamine	d, h	1	1,000
991-42-4	Norbormide	e	1	100/10,000
0	Organorhodium Complex (PMN-82-147)	e	1	10/10,000
65-86-1	Orotic Acid	a, e	1	10,000
20816-12-0	Osmium Tetroxide	a	1,000	10,000
630-60-4	Ouabain	c, e	1	100/10,000
23135-22-0	Oxamyl	e	1	100/10,000
78-71-7	Oxetane, 3,3-Bis(Chloromethyl)-	1	e	500
2497-07-6	Oxydisulfoton	e, h	1	500
10028-15-6	Ozone	e	1	100
1910-42-5	Paraquat	e	1	10/10,000
2074-50-2	Paraquat Methosulfate	e	1	10/10,000
56-38-2	Parathion	c, d	1	100
298-00-0	Parathion-Methyl	c	100	100/10,000
12002-03-8	Paris Green	d	100	500/10,000
19624-22-7	Pentaborane	e	1	500
76-01-7	Pentachloroethane	a, d	1	10,000
87-86-5	Pentachlorophenol	a, d	10	10,000
2570-26-5	Pentadecylamine	e	1	100/10,000
79-21-0	Peracetic Acid	e	1	500
594-42-3	Perchloromethylmercaptan		100	500
108-95-2	Phenol		1,000	500/10,000
97-18-7	Phenol, 2,2'-Thiobis(4,6-Dichloro-	e	1	100/10,000
4418-66-0	Phenol, 2,2'-Thiobis(4-Chloro-6-Methyl-Phenol, 2,2'-Thiobis (4-Chloro-6-Methyl)-	e	1	100/10,000
64-00-6	Phenol, 3-(1-Methylethyl)- Methylcarbamate	e	1	500/10,000
58-36-6	Phenoxarsine, 10,10'-Oxydi-	e	1	500/10,000
696-28-6	Phenyl Dichloroarsine	d, h	1	500
59-88-1	Phenylhydrazine Hydrochloride	e	1	1,000/10,000
62-38-4	Phenylmercury Acetate		100	500/10,000
2097-19-0	Phenylsilatrane	e, h	1	100/10,000
103-85-5	Phenylthiourea		100	100/10,000
298-02-2	Phorate		10	10
4104-14-7	Phosacetim	e	1	100/10,000
947-02-4	Phosfolan	e	1	100/10,000
75-44-5	Phosgene	l	10	10
732-11-6	Phosmet	e	1	10/10,000
13171-21-6	Phosphamidon	e	1	100
7803-51-2	Phosphine		100	500
2703-13-1	Phosphonothioic Acid, Methyl-, O-Ethyl O-(4-(Methylthio)Phenyl) Ester	e	1	500
50782-69-9	Phosphonothioic Acid, Methyl-, S-(2-(Bis(1-Methylethyl)Amino)Ethyl O-Ethyl Ester	e	1	100
2665-30-7	Phosphonothioic Acid, Methyl-, O-(4-Nitrophenyl) O-Phenyl Ester	e	1	500
3254-63-5	Phosphoric Acid, Dimethyl 4-(Methylthio) Phenyl Ester	e	1	500
2587-90-8	Phosphorothioic Acid, O,O-Dimethyl-S-(2-Methylthio) Ethyl Ester	c, e, g	1	500
7723-14-0	Phosphorus	b, h	1	100
10025-87-3	Phosphorus Oxychloride	d	1,000	500
10026-13-8	Phosphorus Pentachloride	b, e	1	500
1314-56-3	Phosphorus Pentoxide	b, e	1	10
7719-12-2	Phosphorus Trichloride		1,000	1,000
84-80-0	Phylloquinone	a, e	1	10,000
57-47-6	Physostigmine	e	1	100/10,000
57-64-7	Physostigmine, Salicylate (1:1)	e	1	100/10,000
124-87-8	Picrotoxin	e	1	500/10,000

APPENDIX A.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[Alphabetical Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
110-89-4	Piperidine	e	1	1,000
5281-13-0	Piprotal	e	1	100/10,000
23505-41-1	Pirimifos-Ethyl	e	1	1,000
10025-65-7	Platinous Chloride	a, e	1	10,000
13454-96-1	Platinum Tetrachloride	a, e	1	10,000
10124-50-2	Potassium Arsenite	d	1,000	500/10,000
151-50-8	Potassium Cyanide	b	10	100
506-61-6	Potassium Silver Cyanide	b	1	500
2631-37-0	Promecarb	e, h	1	500/10,000
106-96-7	Propargyl Bromide	e	1	10
57-57-8	Propiolactone, Beta-	e	1	500
107-12-0	Propionitrile		10	500
542-76-7	Propionitrile, 3-Chloro-		1,000	1,000
70-69-9	Propiophenone, 4-Amino-	e, g	1	100/10,000
109-61-5	Propyl Chloroformate	e	1	500
1331-17-5	Propylene Glycol, Allyl Ether	a, e	1	10,000
75-56-9	Propylene Oxide	I	100	10,000
75-55-8	Propyleneimine	d	1	10,000
2275-18-5	Prothoate	e	1	100/10,000
95-63-6	Pseudocumene	a, e	1	10,000
129-00-0	Pyrene	c	5,000	1,000/10,000
140-76-1	Pyridine, 2-Methyl-5-Vinyl-	e	1	500
504-24-5	Pyridine, 4-Amino-	h	1,000	500/10,000
1124-33-0	Pyridine, 4-Nitro-, 1-Oxide	e	1	500/10,000
53558-25-1	Pyriminil	e, h	1	100/10,000
10049-07-7	Rhodium Trichloride	a, e	1	10,000
14167-18-1	Salcomine	e	1	500/10,000
107-44-8	Sarin	e, h	1	10
7783-00-8	Selenious Acid		10	1,000/10,000
7791-23-3	Selenium Oxychloride	e	1	500
563-41-7	Semicarbazide Hydrochloride	e	1	1,000/10,000
3037-72-7	Silane, (4-Aminobutyl)Diethoxymethyl-	e	1	1,000
128-56-3	Sodium Anthraquinone-1-Sulfonate	a, e	1	10,000
7631-89-2	Sodium Arsenate	d	1,000	1,000/10,000
7784-46-5	Sodium Arsenite	d	1,000	500/10,000
26628-22-8	Sodium Azide (Na(N3))	b	1,000	500
124-65-2	Sodium Cacodylate	e	1	100/10,000
143-33-9	Sodium Cyanide (Na(CN))	b	10	100
62-74-8	Sodium Fluoroacetate		10	10/10,000
131-52-2	Sodium Pentachlorophenate	e	1	100/10,000
13410-01-0	Sodium Selenate	e	1	100/10,000
10102-18-8	Sodium Selenite	h	100	100/10,000
10102-20-2	Sodium Tellurite	e	1	500/10,000
900-95-8	Stannane, Acetoxytriphenyl-	e, g	1	500/10,000
57-24-9	Strychnine	c	10	100/10,000
60-41-3	Strychnine, Sulfate	e	1	100/10,000
3689-24-5	Sulfotep		100	500
3569-57-1	Sulfoxide, 3-Chloropropyl Octyl	e	1	500
7446-09-5	Sulfur Dioxide	e, I	1	500
7783-60-0	Sulfur Tetrafluoride	e	1	100
7446-11-9	Sulfur Trioxide	b, e	1	100
7664-93-9	Sulfuric Acid		1,000	1,000
77-81-6	Tabun	c, e, h	1	10
13494-80-9	Tellurium	e	1	500/10,000
7783-80-4	Tellurium Hexafluoride	e, k	1	100
107-49-3	TEPP		10	100
13071-79-9	Terbufos	e, h	1	100
78-00-2	Tetraethyllead	c, d	10	100
597-64-8	Tetraethyltin	c, e	1	100
75-74-1	Tetramethyllead	c, e, I	1	100
509-14-8	Tetranitromethane		10	500
1314-32-5	Thallic Oxide	a	100	10,000
10031-59-1	Thallium Sulfate	h	100	100/10,000
6533-73-9	Thallous Carbonate	c, h	100	100/10,000
7791-12-0	Thallous Chloride	c, h	100	100/10,000

APPENDIX A.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[Alphabetical Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
2757-18-8	Thallous Malonate	c, e, h	1	100/10,000
7446-18-6	Thallous Sulfate		100	100/10,000
2231-57-4	Thiocarbazide	e	1	1,000/10,000
21564-17-0	Thiocyanic Acid, 2-(Benzothiazolylthio)Methyl Ester	a, e	1	10,000
39196-18-4	Thiofanox		100	100/10,000
640-15-3	Thiometon	a, e	1	10,000
297-97-2	Thionazin		100	500
108-98-5	Thiophenol		100	500
79-19-6	Thiosemicarbazide		100	100/10,000
5344-82-1	Thiourea, (2-Chlorophenyl)-		100	100/10,000
614-78-8	Thiourea, (2-Methylphenyl)-	e	1	500/10,000
7550-45-0	Titanium Tetrachloride	e	1	100
584-84-9	Toluene 2,4-Diisocyanate		100	500
91-08-7	Toluene 2,6-Diisocyanate		100	100
110-57-6	Trans-1,4-Dichlorobutene	e	1	500
1031-47-6	Triamiphos	e	1	500/10,000
24017-47-8	Triazofos	e	1	500
76-02-8	Trichloroacety Chloride	e	1	500
115-21-9	Trichloroethylsilane	e, h	1	500
327-98-0	Trichloronate	e, k	1	500
98-13-5	Trichlorophenylsilane	e, h	1	500
52-68-6	Trichlorophon	a	100	10,000
1558-25-4	Trichloro(Chloromethyl)Silane	e	1	100
27137-85-5	Trichloro(Dichlorophenyl)Silane	e	1	500
998-30-1	Triethoxysilane	e	1	500
75-77-4	Trimethylchlorosilane	e	1	1,000
824-11-3	Trimethylolpropane Phosphite	e, h	1	100/10,000
1066-45-1	Trimethyltin Chloride	e	1	500/10,000
639-58-7	Triphenyltin Chloride	e	1	500/10,000
555-77-1	Tris(2-Chloroethyl)Amine	e, h	1	100
2001-95-8	Valinomycin	c, e	1	1,000/10,000
1314-62-1	Vanadium Pentoxide		1,000	100/10,000
108-05-4	Vinyl Acetate Monomer	d, l	5,000	1,000
3048-64-4	Vinylnorbornene	a, e	1	10,000
81-81-2	Warfarin		100	500/10,000
129-06-6	Warfarin Sodium	e, h	1	100/10,000
28347-13-9	Xylylene Dichloride	e	1	100/10,000
58270-08-9	Zinc, Dichloro(4,4-Dimethyl-5((((Methylamino) Carbonyl)Oxy)Imino)Pentanenitrile)-,(T-4)-	e	1	100/10,000
1314-84-7	Zinc Phosphide	b	100	500

*Only the statutory or final RQ is shown. For more information, see 40 CFR Table 302.4

Notes:

a This chemical does not meet acute toxicity criteria. Its TPQ is set at 10,000 pounds.

b This material is a reactive solid. The TPQ does not default to 10,000 pounds for non-powder, non-molten, non-solution form.

c The calculated TPQ changed after technical review as described in the technical support document.

d Indicates that the RQ is subject to change when the assessment of potential carcinogenicity and/or other toxicity is completed.

e Statutory reportable quantity for purposes of notification under SARA sect 304(a)(2).

f The statutory 1 pound reportable quantity for methyl isocyanate may be adjusted in a future rulemaking action.

g New chemicals added that were not part of the original list of 402 substances.

h Revised TPQ based on new or re-evaluated toxicity data.

I TPQ is revised to its calculated value and does not change due to technical review as in proposed rule.

k The TPQ was revised after proposal due to calculation error.

l Chemicals on the onginal list that do not meet toxicity criteria but because of their high production volume and recognized toxicity are considered chemicals of concern ("Other chemicals").

APPENDIX B.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES

[CAS Number Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
0	Organorhodium Complex (PMN-82-147)	e	1	10/10,000
50-00-0	Formaldehyde	d, l	1,000	500
50-07-7	Mitomycin C	d	1	500/10,000
50-14-6	Ergocalciferol	c, e	1	1,000/10,000

APPENDIX B.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[CAS Number Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
51-21-8	Fluorouracil	e	1	500/10,000
51-75-2	Mechlorethamine	c, e	1	10
51-83-2	Carbachol Chloride	e	1	500/10,000
52-68-6	Trichlorophon	a	100	10,000
53-86-1	Indomethacin	a, e	1	10,000
54-11-5	Nicotine	c	100	100
54-62-6	Aminopterin	e	1	500/10,000
55-91-4	Isofluorphate	c	100	100
56-25-7	Canthandin	e	1	100/10,000
56-38-2	Parathion	c, d	1	100
56-72-4	Coumaphos		10	100/10,000
57-14-7	Dimethylhydrazine	d	1	1,000
57-24-9	Strychnine	c	10	100/10,000
57-47-6	Physostigmine	e	1	100/10,000
57-57-8	Propiolactone, Beta-	e	1	500
57-64-7	Physostigmine, Salicylate (1:1)	e	1	100/10,000
57-74-9	Chlordane	d	1	1,000
58-36-6	Phenoxarsine, 10,10'-Oxydi-	e	1	500/10,000
58-89-9	Lindane	d	1	1,000/10,000
59-88-1	Phenylhydrazine Hydrochloride	e	1	1,000/10,000
60-34-4	Methyl Hydrazine		10	500
60-41-3	Strychnine, Sulfate	e	1	100/10,000
60-51-5	Dimethoate		10	500/10,000
62-38-4	Phenylmercury Acetate		100	500/10,000
62-53-3	Aniline	d, l	5,000	1,000
62-73-7	Dichlorvos		10	1,000
62-74-8	Sodium Fluoroacetate		10	10/10,000
62-75-9	Nitrosodimethylamine	d, h	1	1,000
64-00-6	Phenol, 3-(1-Methylethyl)- Methylcarbamate	e	1	500/10,000
64-86-8	Colchicine	e, h	1	10/10,000
65-30-5	Nicotine Sulfate	e	1	100/10,000
65-86-1	Orotic Acid	a, e	1	10,000
66-81-9	Cycloheximide	e	1	100/10,000
67-66-3	Chloroform	d, l	5,000	10,000
70-69-9	Propiophenone, 4-Amino-	e, g	1	100/10,000
71-63-6	Digitoxin	c, e	1	100/10,000
72-20-8	Endrin		1	500/10,000
74-83-9	Methyl bromide	l	1,000	1,000
74-90-8	Hydrocyanic Acid		10	100
74-93-1	Methyl Mercaptan		100	500
75-15-0	Carbon Disulfide	l	100	10,000
75-18-3	Dimethyl Sulfide	e	1	100
75-21-8	Ethylene Oxide	d, l	1	1,000
75-44-5	Phosgene	l	10	10
75-55-8	Propyleneimine	d	1	10,000
75-56-9	Propylene Oxide	l	100	10,000
75-74-1	Tetramethyllead	c, e, l	1	100
75-77-4	Trimethylchlorosilane	e	1	1,000
75-78-5	Dimethyldichlorosilane	e, h	1	500
75-79-6	Methyltrichlorosilane	e, h	1	500
75-86-5	Acetone Cyanohydrin		10	1,000
76-01-7	Pentachloroethane	a, d	1	10,000
76-02-8	Trichloroacetyl Chloride	e	1	500
77-47-4	Hexachlorocyclopentadiene	d, h	1	100
77-78-1	Dimethyl Sulfate	d	1	500
77-81-6	Tabun	c, e, h	1	10
78-00-2	Tetraethyllead	c, d	10	100
78-34-2	Dioxathion	e	1	500
78-53-5	Amiton	e	1	500
78-71-7	Oxetane, 3,3-Bis(Chloromethyl)-	e	1	500
78-82-0	Isobutyronitrile	e, h	1	1,000
78-94-4	Methyl Vinyl Ketone	e	1	10
78-97-7	Lactonitrile	e	1	1,000
79-06-1	Acrylamide	d, l	5,000	1,000/10,000
79-11-8	Chloroacetic Acid	e	1	100/10,000
79-19-6	Thiosemicarbazide		100	100/10,000

APPENDIX B.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[CAS Number Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
79-21-0	Peracetic Acid	e	1	500
79-22-1	Methyl Chloroformate	d, h	1,000	500
80-63-7	Methyl 2-Chloroacrylate	e	1	500
81-81-2	Warfarin		100	500/10,000
82-66-6	Diphacinone	e	1	10/10,000
84-74-2	Dibutyl Phthalate	a	10	10,000
84-80-0	Phylloquinone	a, e	1	10,000
86-50-0	Azinphos-Methyl		1	10/10,000
86-88-4	ANTU		100	500/10,000
87-86-5	Pentachlorophenol	a, d	10	10,000
88-05-1	Aniline, 2,4,6-Trimethyl-	e	1	500
88-85-7	Dinoseb		1,000	100/10,000
91-08-7	Toluene 2,6-Diisocyanate		100	100
93-05-0	Diethyl-p-Phenylenediamine	a, e	1	10,000
95-48-7	Cresol, o-	d	1,000	1,000/10,000
95-63-6	Pseudocumene	a, e	1	10,000
97-18-7	Phenol, 2,2'-Thiobis(4,6-Dichloro-(4,6-dichloro)-	e	1	100/10,000
98-05-5	Benzenearsonic Acid	e	1	10/10,000
98-07-7	Benzotrichloride	d	1	100
98-09-9	Benzenesulfonyl Chloride	a	100	10,000
98-13-5	Trichlorophenylsilane	e, h	1	500
98-16-8	Benzenamine, 3-(Trifluoromethyl)-	e	1	500
98-87-3	Benzal Chloride	d	5,000	500
98-95-3	Nitrobenzene	l	1,000	10,000
99-98-9	Dimethyl-p-Phenylenediamine	e	1	10/10,000
100-14-1	Benzene, 1-(Chloromethyl)-4-Nitro-	e	1	500/10,000
100-44-7	Benzyl Chloride	d	100	500
102-36-3	Isocyanic Acid, 3,4-Dichlorophenyl Ester	e	1	500/10,000
103-85-5	Phenylthiourea		100	100/10,000
106-89-8	Epichlorohydrin	d, l	1,000	1,000
106-96-7	Propargyl Bromide	e	1	10
106-99-0	Butadiene	a, e	1	10,000
107-02-8	Acrolein		1	500
107-07-3	Chloroethanol	e	1	500
107-11-9	Allylamine	e	1	500
107-12-0	Propionitrile		10	500
107-13-1	Acrylonitrile	d, l	100	10,000
107-15-3	Ethylenediamine		5,000	10,000
107-16-4	Formaldehyde Cyanohydrin	e, h	1	1,000
107-18-6	Allyl Alcohol		100	1,000
107-20-0	Chloroacetaldehyde	a	1,000	10,000
107-30-2	Chloromethyl Methyl Ether	c, d	1	100
107-44-8	Sarin	e, h	1	10
107-49-3	TEPP		10	100
108-05-4	Vinyl Acetate Monomer	d, l	5,000	1,000
108-23-6	Isopropyl Chloroformate	e	1	1,000
108-67-8	Mesitylene	a, e	1	10,000
108-91-8	Cyclohexylamine	e, l	1	10,000
108-95-2	Phenol		1,000	500/10,000
108-98-5	Thiophenol		100	500
109-19-3	Butyl Isovalerate	a, e	1	10,000
109-61-5	Propyl Chloroformate	e	1	500
109-77-3	Malononitrile		1,000	500/10,000
110-00-9	Furan		100	500
110-57-6	Trans-1,4-Dichlorobutene	e	1	500
110-89-4	Piperidine	e	1	1,000
111-34-2	Butyl Vinyl Ether	a, e	1	10,000
111-44-4	Dichloroethyl Ether	d	1	10,000
111-69-3	Adiponitrile	e, l	1	1,000
115-21-9	Trichloroethylsilane	e, h	1	500
115-26-4	Dimefox	e	1	500
115-29-7	Endosulfan		1	10/10,000
115-90-2	Fensulfothion	e, h	1	500
116-06-3	Aldicarb	c	1	100/10,000
117-52-2	Coumafuryl	a, e	1	10,000
117-84-0	Dioctyl Phthalate	a	5,000	10,000
119-38-0	Isopropylmethylpyrazolyl Dimethylcarbamate	e	1	500

APPENDIX B.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[CAS Number Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
122-14-5	Fenitrothion	e	1	500
123-31-9	Hydroquinone	l	1	500/10,000
123-73-9	Crotonaldehyde, (E)-		100	1,000
124-65-2	Sodium Cacodylate	e	1	100/10,000
124-87-8	Picrotoxin	e	1	500/10,000
126-98-7	Methacrylonitrile	h	1	500
128-56-3	Sodium Anthraquinone-1-Sulfonate	a, e	1	10,000
129-00-0	Pyrene	c	5,000	1,000/10,000
129-06-6	Warfarin Sodium	e, h	1	100/10,000
131-11-3	Dimethyl Phthalate	a	5,000	10,000
131-52-2	Sodium Pentachlorophenate	e	1	100/10,000
140-29-4	Benzyl Cyanide	e, h	1	500
140-76-1	Pyridine, 2-Methyl-5-Vinyl-	e	1	500
141-66-2	Dicrotophos	e	1	100
143-33-9	Sodium Cyanide (Na(CN))	b	10	100
144-49-0	Fluoroacetic Acid	e	1	10/10,000
149-74-6	Dichloromethyphenylsilane	e	1	1,000
151-38-2	Methoxyethylmercuric Acetate	e	1	500/10,000
151-50-8	Potassium Cyanide	b	10	100
151-56-4	Ethyleneimine	d	1	500
152-16-9	Diphosphoramide, Octamethyl-		100	100
287-92-3	Cyclopentane	a, e	1	10,000
297-78-9	Isobenzan	e	1	100/10,000
297-97-2	Thionazin		100	500
298-00-0	Parathion-Methyl	c	100	100/10,000
298-02-2	Phorate		10	10
298-04-4	Disulfoton		1	500
300-62-9	Amphetamine	e	1	1,000
302-01-2	Hydrazine	d	1	1,000
309-00-2	Aldrin	d	1	500/10,000
315-18-4	Mexacarbate		1,000	500/10,000
316-42-7	Emetine, Dihydrochloride	e, h	1	1/10,000
327-98-0	Trichloronate	e, k	1	500
353-42-4	Boron Trifluoride Compound With Methyl Ether (1:1)	e	1	1,000
359-06-8	Fluoroacetyl Chloride	c, e	1	10
371-62-0	Ethylene Fluorohydrin	c, e, h	1	10
379-79-3	Ergotamine Tartrate	e	1	500/10,000
465-73-6	Isodrin		1	100/10,000
470-90-6	Chlorfenvinfos	e	1	500
502-39-6	Methylmercuric Dicyanamide	e	1	500/10,000
504-24-5	Pyridine, 4-Amino-	h	1,000	500/10,000
505-60-2	Mustard Gas	e, h	1	500
506-61-6	Potassium Silver Cyanide	b	1	500
506-68-3	Cyanogen Bromide		1,000	500/10,000
506-78-5	Cyanogen Iodide	e	1	1,000/10,000
509-14-8	Tetranitromethane		10	500
514-73-8	Dithiazanine Iodide	e	1	500/10,000
534-07-6	Bis(Chloromethyl) Ketone	e	1	10/10,000
534-52-1	Dinitrocresol		10	10/10,000
535-89-7	Crimidine	e	1	100/10,000
538-07-8	Ethylbis(2-Chloroethyl)Amine	e, h	1	500
541-25-3	Lewisite	c, e, h	1	10
541-53-7	Dithiobiuret		100	100/10,000
542-76-7	Propionitrile, 3-Chloro-		1,000	1,000
542-88-1	Chloromethyl Ether	d, h	1	100
542-90-5	Ethylthiocyanate	e	1	10,000
555-77-1	Tris(2-Chloroethyl)Amine	e, h	1	100
556-61-6	Methyl Isothiocyanate	b, e	1	500
556-64-9	Methyl Thiocyanate	e	1	10,000
558-25-8	Methanesulfonyl Fluoride	e	1	1,000
563-12-2	Ethion		10	1,000
563-41-7	Semicarbazide Hydrochloride	e	1	1,000/10,000
584-84-9	Toluene 2,4-Diisocyanate		100	500
594-42-3	Perchloromethylmercaptan		100	500
597-64-8	Tetraethyltin	c, e	1	100

APPENDIX B.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[CAS Number Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
614-78-8	Thiourea, (2-Methylphenyl)-	e	1	500/10,000
624-83-9	Methyl Isocyanate	f	1	500
624-92-0	Methyl Disulfide	e	1	100
625-55-8	Isopropyl Formate	e	1	500
627-11-2	Chloroethyl Chloroformate	e	1	1,000
630-60-4	Quabain	c, e	1	100/10,000
633-03-4	C. I. Basic Green 1	a, e	1	10,000
639-58-7	Triphenyltin Chloride	e	1	500/10,000
640-15-3	Thiometon	a, e	1	10,000
640-19-7	Fluoroacetamide	j	100	100/10,000
644-64-4	Dimetilan	e	1	500/10,000
646-06-0	Dioxolane	a, e	1	10,000
675-14-9	Cyanuric Fluoride	e	1	100
676-97-1	Methyl Phosphonic Dichloride	b, e	1	100
696-28-6	Phenyl Dichloroarsine	d, h	1	500
732-11-6	Phosmet	e	1	10/10,000
760-93-0	Methacrylic Anhydride	e	1	500
786-19-6	Carbophenothion	e	1	500
814-49-3	Diethyl Chlorophosphate	e, h	1	500
814-68-6	Acrylyl Chloride	e, h	1	100
824-11-3	Trimethylolpropane Phosphite	e, h	1	100/10,000
900-95-8	Stannane, Acetoxytriphenyl-	e, g	1	500/10,000
919-86-8	Demeton-S-Methyl	e	1	500
920-46-7	Methacryloyl Chloride	e	1	100
944-22-9	Fonofos	e	1	500
947-02-4	Phosfolan	e	1	100/10,000
950-10-7	Mephosfolan	e	1	500
950-37-8	Methidathion	e	1	500/10,000
991-42-4	Norbormide	e	1	100/10,000
998-30-1	Triethoxysilane	e	1	500
999-81-5	Chlormequat Chloride	e, h	1	100/10,000
1031-47-6	Triamiphos	e	1	500/10,000
1066-45-1	Trimethyltin Chloride	e	1	500/10,000
1122-60-7	Nitrocyclohexane	e	1	500
1124-33-0	Pyridine, 4-Nitro- 1-Oxide	e	1	500/10,000
1129-41-5	Metolcarb	e	1	100/10,000
1303-28-2	Arsenic Pentoxide	d	5,000	100/10,000
1306-19-0	Cadmium Oxide	e	1	100/10,000
1314-32-5	Thallic Oxide	a	100	10,000
1314-56-3	Phosphorus Pentoxide	b, e	1	10
1314-62-1	Vanadium Pentoxide		1,000	100/10,000
1314-84-7	Zinc Phosphide	b	100	500
1327-53-3	Arsenous Oxide	d, h	5,000	100/10,000
1331-17-5	Propylene Glycol, Allyl Ether	a, e	1	10,000
1335-87-1	Hexachloronaphthalene	a, e	1	10,000
1397-94-0	Antimycin A	c, e	1	1,000/10,000
1405-87-4	Bacitracin	a, e	1	10,000
1420-07-1	Dinoterb	e	1	500/10,000
1464-53-5	Diepoxybutane	d	1	500
1558-25-4	Trichloro(Chloromethyl)Silane	e	1	100
1563-66-2	Carbofuran		10	10/10,000
1600-27-7	Mercuric Acetate	e	1	500/10,000
1622-32-8	Ethanesulfonyl Chloride, 2-Chloro-	e	1	500
1642-54-2	Diethylcarbamazine Citrate	e	1	100/10,000
1752-30-3	Acetone Thiosemicarbazide	e	1	1,000/10,000
1910-42-5	Paraquat	e	1	10/10,000
1982-47-4	Chloroxuron	e	1	500/10,000
2001-95-8	Valinomycin	c, e	1	1,000/10,000
2032-65-7	Methiocarb		10	500/10,000
2074-50-2	Paraquat Methosulfate	e	1	10/10,000
2097-19-0	Phenylsilatrane	e, h	1	100/10,000
2104-64-5	EPN	e	1	100/10,000
2223-93-0	Cadmium Stearate	c, e	1	1,000/10,000
2231-57-4	Thiocarbazide	e	1	1,000/10,000
2235-25-8	Ethylmercuric Phosphate	a, e	1	10,000
2238-07-5	Diglycidyl Ether	e	1	1,000
2244-16-8	Carvone	a, e	1	10,000

APPENDIX B.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[CAS Number Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
2275-18-5	Prothoate	e	1	100/10,000
2497-07-6	Oxydisulfoton	e, h	1	500
2524-03-0	Dimethyl Phosphorochloridothioate	e	1	500
2540-82-1	Formothion	e	1	100
2570-26-5	Pentadecylamine	e	1	100/10,000
2587-90-8	Phosphorothioic Acid, O,O-Dimethyl-S-(2-Methylthio) Ethyl Ester	c, e, g	1	500
2631-37-0	Promecarb	e, h	1	500/10,000
2636-26-2	Cyanophos	e	1	1,000
2642-71-9	Azinphos-Ethyl	e	1	100/10,000
2665-30-7	Phosphonothioic Acid, Methyl-,O-(4-Nitrophenyl) O-Phenyl Ester	e	1	500
2703-13-1	Phosphonothioic Acid, Methyl-,O-Ethyl O-(4-(Methylthio)Phenyl) Ester	e	1	500
2757-18-8	Thallous Malonate	c, e, h	1	100/10,000
2763-96-4	Muscimol	a, h	1,000	10,000
2778-04-3	Endothion	e	1	500/10,000
3037-72-7	Silane, (4-Aminobutyl)Diethoxymethyl-	e	1	1,000
3048-64-4	Vinylnorbornene	a, e	1	10,000
3254-63-5	Phosphoric Acid, Dimethyl 4-(Methylthio) Phenyl Ester	e	1	500
3569-57-1	Sulfoxide, 3-Chloropropyl Octyl	e	1	500
3615-21-2	Benzimidazole, 4,5-Dichloro-2-(Trifluoromethyl)-	e, g	1	500/10,000
3689-24-5	Sulfotep		100	500
3691-35-8	Chlorophacinone	e	1	100/10,000
3734-97-2	Amiton Oxalate	e	1	100/10,000
3735-23-7	Methyl Phenkapton	e	1	500
3878-19-1	Fuberidazole	e	1	100/10,000
4044-65-9	Bitoscanate	e	1	500/10,000
4098-71-9	Isophorone Diisocyanate	b, e	1	100
4104-14-7	Phosacetim	e	1	100/10,000
4170-30-3	Crotonaldehyde		100	1,000
4301-50-2	Fluenetil	e	1	100/10,000
4418-66-0	Phenol, 2,2'-Thiobis(4-Chloro-6-Methyl)-	e	1	100/10,000
4835-11-4	Hexamethylenediamine, N,N'-Dibutyl-	e	1	500
5281-13-0	Piprotal	e	1	100/10,000
5344-82-1	Thiourea, (2-Chlorophenyl)-		100	100/10,000
5836-29-3	Coumatetralyl	e	1	500/10,000
6533-73-9	Thallous Carbonate	c, h	100	100/10,000
6923-22-4	Monocrotophos	e	1	10/10,000
7440-02-0	Nickel	a, d	1	10,000
7440-48-4	Cobalt	a, e	1	10,000
7446-09-5	Sulfur Dioxide	e, l	1	500
7446-11-9	Sulfur Trioxide	b, e	1	100
7446-18-6	Thallous Sulfate		100	100/10,000
7487-94-7	Mercuric Chloride	e	1	500/10,000
7550-45-0	Titanium Tetrachloride	e	1	100
7580-67-8	Lithium Hydride	b, e	1	100
7631-89-2	Sodium Arsenate	d	1,000	1,000/10,000
7637-07-2	Boron Trifluoride	e	1	500
7647-01-0	Hydrogen Chloride (Gas Only)	e, l	1	500
7664-39-3	Hydrogen Fluoride		100	100
7664-41-7	Ammonia	l	100	500
7664-93-9	Sulfuric Acid		1,000	1,000
7697-37-2	Nitric Acid		1,000	1,000
7719-12-2	Phosphorus Trichloride		1,000	1,000
7722-84-1	Hydrogen Peroxide (Conc >52%)	e, l	1	1,000
7723-14-0	Phosphorus	b, h	1	100
7726-95-6	Bromine	e, l	1	500
7778-44-1	Calcium Arsenate	d	1,000	500/10,000
7782-41-4	Fluorine	k	10	500
7782-50-5	Chlorine		10	100
7783-00-8	Selenious Acid		10	1,000/10,000
7783-06-4	Hydrogen Sulfide	l	100	500
7783-07-5	Hydrogen Selenide	e	1	10
7783-60-0	Sulfur Tetrafluoride	e	1	100
7783-70-2	Antimony Pentafluoride	e	1	500
7783-80-4	Tellurium Hexafluoride	e, k	1	100
7784-34-1	Arsenous Trichloride	d	5,000	500

APPENDIX B.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[CAS Number Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
7784-42-1	Arsine	e	1	100
7784-46-5	Sodium Arsenite	d	1,000	500/10,000
7786-34-7	Mevinphos		10	500
7791-12-0	Thallous Chlonde	c, h	100	100/10,000
7791-23-3	Selenium Oxychlonde	e	1	500
7803-51-2	Phosphine		100	500
8001-35-2	Camphechlor	d	1	500/10,000
8023-53-8	Dichlorobenzalkonium Chloride	a, e	1	10,000
8065-48-3	Demeton	e	1	500
10025-65-7	Plantinous Chlonde	a, e	1	10,000
10025-73-7	Chromic Chloride	e	1	1/10,000
10025-87-3	Phosphorus Oxychlonde	d	1,000	500
10025-97-5	Indium Tetrachloride	a,e	1	10,000
10026-13-8	Phosphorus Pentachlonde	b, e	1	500
10028-15-6	Ozone	e	1	100
10031-59-1	Thallium Sulfate	h	100	100/10,000
10049-07-7	Rhodium Trichlonde	a, e	1	10,000
10102-18-8	Sodium Selenite	h	100	100/10,000
10102-20-2	Sodium Tellurite	e	1	500/10,000
10102-43-9	Nitnc Oxide	c	10	100
10102-44-0	Nitrogen Dioxide		10	100
10124-50-2	Potassium Arsenite	d	1,000	500/10,000
10140-87-1	Ethanol, 1,2-Dichloro- Acetate	e	1	1,000
10210-68-1	Cobalt Carbonyl	e, h	1	10/10,000
10265-92-6	Methamidophos	e	1	100/10,000
10294-34-5	Boron Trichlonde	e	1	500
10311-84-9	Dialifor	e	1	100/10,000
10476-95-6	Methacrolein Diacetate	e	1	1,000
12002-03-8	Paris Green	d	100	500/10,000
12108-13-3	Manganese, Tricarbonyl Methylcyclopentadienyl	e, h	1	100
13071-79-9	Terbufos	e, h	1	100
13171-21-6	Phosphamidon	e	1	100
13194-48-4	Ethoprophos	e	1	1,000
13410-01-0	Sodium Selenate	e	1	100/10,000
13450-90-3	Gallium Trichloride	e	1	500/10,000
13454-96-1	Platinum Tetrachloride	a, e	1	10,000
13463-39-3	Nickel Carbonyl	d	1	1
13463-40-6	Iron, Pentacarbonyl	e	1	100
13494-80-9	Tellurium	e	1	500/10,000
14167-18-1	Salcomine	e	1	500/10,000
15271-41-7	Bicyclo[2.2.1]Heptane-2-Carbonitrile, 5-Chloro-6-(((Methylamino)Carbonyl)Oxy)Imino)-(1s-(1-alpha, 2-beta, 4-alpha, 5-alpha, 6E))-	e	1	500/10,000
16752-77-5	Methomyl	h	100	500/10,000
16919-58-7	Ammonium Chloroplatinate	a, e	1	10,000
17702-41-9	Decaborane(14)	e	1	500/10,000
17702-57-7	Formparanate	e	1	100/10,000
19287-45-7	Diborane	e	1	100
19624-22-7	Pentaborane	e	1	500
20816-12-0	Osmium Tetroxide	a	1,000	10,000
20830-75-5	Digoxin	e, h	1	10/10,000
20859-73-8	Aluminum Phosphide	b	100	500
21548-32-3	Fosthietan	e	1	500
21564-17-0	Thiocyanic Acid, 2-(Benzothiazolylthio)Methyl Ester	a, e	1	10,000
21609-90-5	Leptophos	e	1	500/10,000
21908-53-2	Mercuric Oxide	e	1	500/10,000
21923-23-9	Chlorthiophos	e, h	1	500
22224-92-6	Fenamiphos	e	1	10/10,000
23135-22-0	Oxamyl	e	1	100/10,000
23422-53-9	Formetanate Hydrochloride	e,h	1	500/10,000
23505-41-1	Pirimifos-Ethyl	e	1	1,000
24017-47-8	Triazofos	e	1	500
24934-91-6	Chlormephos	e	1	500
26419-73-8	Carbamic Acid, Methyl- O-(((2,4-Dimethyl-1, 3-Dithiolan-2-yl)Methylene)Amino)-	e	1	100/10,000
26628-22-8	Sodium Azide (NaN_3)	b	1,000	500
27137-85-5	Trichloro(Dichlorophenyl)Silane	e	1	500
28347-13-9	Xylylene Dichloride	e	1	100/10,000
28772-56-7	Bromadiolone	e	1	100/10,000

APPENDIX B.—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES—Continued

[CAS Number Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
30674-80-7	Methacryloyloxyethyl Isocyanate	e, h	1	100
39196-18-4	Thiofanox		100	100/10,000
50782-69-9	Phosphonothioic Acid, Methyl- S-(2-(Bis(1-Methylethyl)Amino)Ethyl) O-Ethyl Ester	e	1	100
53558-25-1	Pyriminil	e, h	1	100/10,000
58270-08-9	Zinc, Dichloro(4,4-Dimethyl-5((((Methylamino)Carbonyl)Oxy)Imino)Pentanenitrile)- (T-4)-	e	1	100/10,000
62207-76-5	Cobalt, ((2,2'-(1,2-Ethanediylbis(Nitrilomethylidyne))Bis(6-Fluorophenolato))(2-)-N,N',O,O')-	e	1	100/10,000

*Only the statutory or final RQ is shown. For more information, see 40 CFR Table 302.4.

Notes:

a This chemical does not meet acute toxicity criteria. Its TPQ is set at 10,000 pounds.
b This material is a reactive solid. The TPQ does not default to 10,000 pounds for non-powder, non-molten, non-solution form.
c The calculated TPQ changed after technical review as described in the technical support document.
d Indicates that the RQ is subject to change when the assessment of potential carcinogenicity and/or other toxicity is completed.
e Statutory reportable quantity for purposes of notification under SARA sect 304(a)(2).
f The statutory 1 pound reportable quantity for methyl isocyanate may be adjusted in a future rulemaking action.
g New chemicals added that were not part of the original list of 402 substances.
h Revised TPQ based on new or re-evaluated toxicity data.
j TPQ is revised to its calculated value and does not change due to technical review as in proposed rule.
k The TPQ was revised after proposal due to calculation error.
l Chemicals on the original list that do not meet the toxicity criteria but because of their high production volume and recognized toxicity are considered chemicals of concern ("Other chemicals").

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federal register

Wednesday,
April 22, 1987

Part III

The President

Proclamation 5631
Executive Order 12591
Executive Order 12592
Memorandum of April 17, 1987

Federal Register
Vol. 52, No. 77
Wednesday, April 22, 1987

Presidential Documents

Title 3—

The President

Proclamation 5631 of April 17, 1987

Increase in the Rates of Duty for Certain Articles From Japan

By the President of the United States of America

A Proclamation

1. On April 17 1987 I determined pursuant to section 301 of the Trade Act of 1974, as amended ("the Act") (19 U.S.C. 2411), that the Government of Japan has not implemented or enforced major provisions of the Arrangement concerning Trade in Semiconductor Products, signed on September 2, 1986, and that this is inconsistent with the provisions of, or otherwise denies benefits to the United States under, a trade agreement; and is unjustifiable and unreasonable and constitutes a burden or restriction on United States commerce. Specifically, the Government of Japan has not met its commitments to increase market access opportunities in Japan for foreign-based semiconductor producers or to prevent "dumping" through monitoring of costs and export prices of exports from Japan of semiconductor products. I have further determined, pursuant to section 301(b) of the Act (19 U.S.C. 2411(b)), that the appropriate and feasible action in response to such failure is to impose increased duties on certain imported articles that are the products of Japan.

2. Section 301(a) of the Act (19 U.S.C. 2411(a)) authorizes the President to take all appropriate and feasible action within his power to obtain the elimination of an act, policy, or practice of a foreign government or instrumentality that (1) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, a trade agreement; or (2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce. Section 301(b) of the Act authorizes the President to suspend, withdraw, or prevent the application of benefits of trade agreement concessions with respect to, and to impose duties or other import restrictions on the products of, such foreign government or instrumentality for such time as he determines appropriate. Pursuant to section 301(a) of the Act, such actions can be taken on a nondiscriminatory basis or solely against the products of the foreign government or instrumentality involved. Section 301(d)(1) of the Act (19 U.S.C. 2411(d)(1)) authorizes the President to take action on his own motion.

3. I have decided, pursuant to section 301(a), (b), and (d)(1) of the Act, to increase U.S. import duties on the articles provided for in the Annex to this Proclamation that are the products of Japan.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to sections 301(a), (b), and (d)(1) and section 604 of the Act (19 U.S.C. 2483), do proclaim that:

1. Subpart B of part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is modified as set forth in the Annex to this Proclamation.

2. The United States Trade Representative is authorized to suspend, modify, or terminate the increased duties imposed by this Proclamation upon publication in the Federal Register of his determination that such action is in the interest of the United States.

3. This Proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after April 17 1987 except that it shall not apply with respect to articles that were admitted into a U.S. foreign trade zone on or before March 31, 1987

IN WITNESS WHEREOF I have hereunto set my hand this seventeenth day of April, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

ANNEX

Subpart B of part 2 of the Appendix to the Tariff Schedules of the United States is modified by inserting in numerical sequence the following new items and superior heading, set forth herein in columnar form, in the columns designated "Item" "Articles" "Rates of Duty 1" and "Rates of Duty 2" respectively:

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after April 17, 1987

	"Articles the product of Japan:		
945.83	Automatic data processing machines, of the type of which the constituent units are integrated in the same housing, whether finished or unfinished, which incorporate a microprocessor-based calculating mechanism, are capable of handling data words of at least 16-bits off the microprocessor, and are designed for use with a non-CRT display unit, whether or not capable of use without an external power source (provided for in item 676.15, part 4G, schedule 6).	100% ad val.	No change
945.84	Automatic data processing machines, of the type of which the consituent units are separately housed, whether finished or unfinished, which incorporate a microprocessor-based calculating mechanism, are capable of handling data words of at least 16-bits off the microprocessor, designed for use while affixed to or placed on a table, desk, or similar place (provided for in item 676.15, part 4G, schedule 6)	100% ad val.	No change
945.85	Rotary drills, not battery powered, with a chuck capacity of 1/2 inch or more; electropneumatic rotary and percussion hammers; and grinders, sanders, and polishers (except angle grinders, sanders, and polishers, belt sanders, and orbital and straight-line sanders), the foregoing which are hand-directed or -controlled tools with self-contained electric motor (provided for in item 683.20, part 5, schedule 6)	100% ad val.	No change
945.86	Complete color television receivers containing in a single housing apparatus for receiving and displaying off-the-air each standard U.S. broadcast channel, with or without external speakers, having a single picture tube intended for direct viewing, with a video display diagonal of 18, 19, or 20 inches (all the foregoing provided for in item 684.92, part 5, schedule 6)	100% ad val.	No change

[FR Doc. 87-9269
Filed 4-21-87; 11:09 am]
Billing code 3195-01-M

Editorial note: For the President's statement of Apr. 17 on the duty increases, see the *Weekly Compilation of Presidential Domucents* (vol. 23, no. 15).

Presidential Documents

Executive Order 12591 of April 10, 1987

Facilitating Access to Science and Technology

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Technology Transfer Act of 1986 (Public Law 99–502), the Trademark Clarification Act of 1984 (Public Law 98–620), and the University and Small Business Patent Procedure Act of 1980 (Public Law 96–517), and in order to ensure that Federal agencies and laboratories assist universities and the private sector in broadening our technology base by moving new knowledge from the research laboratory into the development of new products and processes, it is hereby ordered as follows:

Section 1. *Transfer of Federally Funded Technology.*

(a) The head of each Executive department and agency, to the extent permitted by law, shall encourage and facilitate collaboration among Federal laboratories, State and local governments, universities, and the private sector, particularly small business, in order to assist in the transfer of technology to the marketplace.

(b) The head of each Executive department and agency shall, within overall funding allocations and to the extent permitted by law:

(1) delegate authority to its government-owned, government-operated Federal laboratories:

(A) to enter into cooperative research and development agreements with other Federal laboratories, State and local governments, universities, and the private sector; and

(B) to license, assign, or waive rights to intellectual property developed by the laboratory either under such cooperative research or development agreements and from within individual laboratories.

(2) identify and encourage persons to act as conduits between and among Federal laboratories, universities, and the private sector for the transfer of technology developed from federally funded research and development efforts;

(3) ensure that State and local governments, universities, and the private sector are provided with information on the technology, expertise, and facilities available in Federal laboratories;

(4) promote the commercialization, in accord with my Memorandum to the Heads of Executive Departments and Agencies of February 18, 1983, of patentable results of federally funded research by granting to all contractors, regardless of size, the title to patents made in whole or in part with Federal funds, in exchange for royalty-free use by or on behalf of the government;

(5) implement, as expeditiously as practicable, royalty-sharing programs with inventors who were employees of the agency at the time their inventions were made, and cash award programs; and

(6) cooperate, under policy guidance provided by the Office of Federal Procurement Policy, with the heads of other affected departments and agencies in the development of a uniform policy permitting Federal contractors to retain rights to software, engineering drawings, and other technical data generated by Federal grants and contracts, in exchange for royalty-free use by or on behalf of the government.

Sec. 2. *Establishment of the Technology Share Program.* The Secretaries of Agriculture, Commerce, Energy, and Health and Human Services and the Administrator of the National Aeronautics and Space Administration shall select one or more of their Federal laboratories to participate in the Technology Share Program. Consistent with its mission and policies and within its overall funding allocation in any year, each Federal laboratory so selected shall:

(a) Identify areas of research and technology of potential importance to long-term national economic competitiveness and in which the laboratory possesses special competence and/or unique facilities;

(b) Establish a mechanism through which the laboratory performs research in areas identified in Section 2(a) as a participant of a consortium composed of United States industries and universities. All consortia so established shall have, at a minimum, three individual companies that conduct the majority of their business in the United States; and

(c) Limit its participation in any consortium so established to the use of laboratory personnel and facilities. However, each laboratory may also provide financial support generally not to exceed 25 percent of the total budget for the activities of the consortium. Such financial support by any laboratory in all such consortia shall be limited to a maximum of $5 million per annum.

Sec. 3. *Technology Exchange—Scientists and Engineers.* The Executive Director of the President's Commission on Executive Exchange shall assist Federal agencies, where appropriate, by developing and implementing an exchange program whereby scientists and engineers in the private sector may take temporary assignments in Federal laboratories, and scientists and engineers in Federal laboratories may take temporary assignments in the private sector.

Sec. 4. *International Science and Technology.* In order to ensure that the United States benefits from and fully exploits scientific research and technology developed abroad,

(a) The head of each Executive department and agency, when negotiating or entering into cooperative research and development agreements and licensing arrangements with foreign persons or industrial organizations (where these entities are directly or indirectly controlled by a foreign company or government), shall, in consultation with the United States Trade Representative, give appropriate consideration:

(1) to whether such foreign companies or governments permit and encourage United States agencies, organizations, or persons to enter into cooperative research and development agreements and licensing arrangements on a comparable basis;

(2) to whether those foreign governments have policies to protect the United States intellectual property rights; and

(3) where cooperative research will involve data, technologies, or products subject to national security export controls under the laws of the United States, to whether those foreign governments have adopted adequate measures to prevent the transfer of strategic technology to destinations prohibited under such national security export controls, either through participation in the Coordinating Committee for Multilateral Export Controls (COCOM) or through other international agreements to which the United States and such foreign governments are signatories.

(b) The Secretary of State shall develop a recruitment policy that encourages scientists and engineers from other Federal agencies, academic institutions, and industry to apply for assignments in embassies of the United States; and

(c) The Secretaries of State and Commerce and the Director of the National Science Foundation shall develop a central mechanism for the prompt and efficient dissemination of science and technology information developed abroad to users in Federal laboratories, academic institutions, and the private sector on a fee-for-service basis.

Sec. 5. *Technology Transfer from the Department of Defense.* Within 6 months of the date of this Order, the Secretary of Defense shall identify a list of funded technologies that would be potentially useful to United States industries and universities. The Secretary shall then accelerate efforts to make these technologies more readily available to United States industries and universities.

Sec. 6. *Basic Science and Technology Centers.* The head of each Executive department and agency shall examine the potential for including the establishment of university research centers in engineering, science, or technology in the strategy and planning for any future research and development programs. Such university centers shall be jointly funded by the Federal Government, the private sector, and, where appropriate, the States and shall focus on areas of fundamental research and technology that are both scientifically promising and have the potential to contribute to the Nation's long-term economic competitiveness.

Sec. 7. *Reporting Requirements.* (a) Within 1 year from the date of this Order, the Director of the Office of Science and Technology Policy shall convene an interagency task force comprised of the heads of representative agencies and the directors of representative Federal laboratories, or their designees, in order to identify and disseminate creative approaches to technology transfer from Federal laboratories. The task force will report to the President on the progress of and problems with technology transfer from Federal laboratories.

(b) Specifically, the report shall include:

(1) a listing of current technology transfer programs and an assessment of the effectiveness of these programs;

(2) identification of new or creative approaches to technology transfer that might serve as model programs for Federal laboratories;

(3) criteria to assess the effectiveness and impact on the Nation's economy of planned or future technology transfer efforts; and

(4) a compilation and assessment of the Technology Share Program established in Section 2 and, where appropriate, related cooperative research and development venture programs.

Sec. 8. *Relation to Existing Law.* Nothing in this Order shall affect the continued applicability of any existing laws or regulations relating to the transfer of United States technology to other nations. The head of any Executive department or agency may exclude from consideration, under this Order, any technology that would be, if transferred, detrimental to the interests of national security.

Ronald Reagan

THE WHITE HOUSE,
April 10, 1987

[FR Doc. 87-9270
Filed 4-21-87; 11:10 am]
Billing code 3195-01-M

Editorial note: For the President's statement of Apr. 10, on signing EO 12591, see the *Weekly Compilation of Presidential Documents* (vol. 23, no. 15).

Presidential Documents

Executive Order 12592 of April 10, 1987

President's Commission on Compensation of Career Federal Executives

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), an advisory commission on compensation of career Federal executives, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the President's Commission on Compensation of Career Federal Executives. The Commission shall be composed of seven members, to be appointed or designated by the President, not more than four of whom shall be employees of the Federal government. The President shall designate the Chairman of the Commission.

Sec. 2. *Functions.* (a) The Commission shall study the levels of compensation paid to career members of the Senior Executive Service (SES) and shall advise the President and the Director of the Office of Personnel Management on its findings and recommendations, including its conclusions on:

(1) what effects inflation has had on these pay levels;

(2) how these pay levels compare with those of similarly situated executives in the private sector;

(3) how these pay levels affect the recruitment and retention of career executives in the Federal service;

(4) whether these pay levels are appropriate;

(5) how compensation of the Senior Executive Service should relate to compensation of (a) Executive Level employees, and (b) GS/GM employees; and

(6) whether legislation should be proposed to alter the President's authority to adjust SES compensation levels.

(b) The Commission shall report its findings and recommendations to the President and the Director of the Office of Personnel Management no later than August 1, 1987

Sec. 3. *Administration.* (a) The heads of Executive departments and agencies shall, to the extent provided by law, provide the Commission such information with respect to the compensation of career Federal executives as it may require for purposes of carrying out its functions.

(b) Members of the Commission shall serve without compensation for their work on the Commission. However, members appointed from among private citizens of the United States shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707).

(c) The Director of the Office of Personnel Management shall, to the extent permitted by law and subject to the availability of funds, provide the Commission with such administrative services, facilities, staff, and other support services as may be necessary for the effective performance of its functions.

Sec. 4. *General.* (a) Notwithstanding the provisions of any other Executive order, the responsibilities of the President under the Federal Advisory Committee Act, as amended, except that of reporting annually to the Congress, which are applicable to the Commission established by this Order, shall be performed by the Director of the Office of Personnel Management, in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Commission shall terminate 30 days after submission of its report to the President.

Ronald Reagan

THE WHITE HOUSE,
April 10, 1987

[FR Doc. 87-9271
Filed 4-21-87; 11:12 am]
Billing code 3195-01-M

Presidential Documents

Memorandum of April 17, 1987

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the United States Trade Representative

Pursuant to section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411), I have determined that the Government of Japan has not implemented or enforced major provisions of the Arrangement concerning Trade in Semiconductor Products ("the Arrangement"), signed on September 2, 1986, and that this is inconsistent with the provisions of, or otherwise denies benefits to the United States under, the Arrangement; and is unjustifiable and unreasonable, and constitutes a burden or restriction on U.S. commerce. I also have determined, pursuant to section 301 of the Act, to proclaim increases in customs duties to a level of 100 percent *ad valorem* on certain products of Japan in response. The tariff increases I am proclaiming shall be effective with respect to the covered products of Japan which are entered on and after April 17 1987 I am taking this action to enforce U.S. rights under a trade agreement and to respond to the acts, policies and practices of the Government of Japan with respect to the Arrangement.

Reasons for Determination

In the Arrangement, the Government of Japan joined the Government of the United States in declaring its desire to enhance free trade in semiconductors on the basis of market principles and the competitive positions of the semiconductor industries in the two countries. The Government of Japan committed: (1) to impress upon Japanese semiconductor producers and users the need aggressively to take advantage of increased market access opportunities in Japan for foreign-based semiconductor firms; and (2) to provide further support for expanded sales of foreign-produced semiconductors in Japan through establishment of a sales assistance organization and promotion of stable long-term relationships between Japanese purchasers and foreign-based semiconductor producers. Finally, both Governments agreed that the expected improvement in access by foreign-based semiconductor producers should be gradual and steady over the period of the Arrangement.

Although the Government of Japan has taken some steps toward satisfying these obligations, they have been inadequate; foreign-based semiconductor producers still do not have access in that market equivalent to that enjoyed by Japanese firms.

In the Arrangement, the Government of Japan also committed: (1) to prevent "dumping" through monitoring of costs and export prices of semiconductor products exported from Japan; and (2) to encourage Japanese semiconductor producers to conform to antidumping principles. Again, the Government of Japan has taken steps toward satisfying these obligations, but they have been inadequate.

Consultations were held with the Government of Japan on numerous occasions between September 1986 and April 1987 in order to enforce U.S. rights under the Arrangement and to ensure that the Government of Japan undertake concerted efforts to fulfill its obligations under the Arrangement. To date these obligations have not been met.

On March 27 1987 I announced my intention to raise customs duties to a level of 100 percent *ad valorem* on as much as $300 million in Japanese exports to the United States in response to the lack of implementation or enforcement by the Government of Japan of major provisions of the Arrangement. I also announced that the products against which retaliatory action would be taken would be selected after a comment period ending April 14, 1987 Finally, I announced that sanctions would remain in effect until there is firm and continuing evidence that indicates that the Government of Japan is fully implementing and enforcing the Arrangement.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, April 17 1987

[FR Doc. 87-9272
Filed 4-21-87; 11:13 am]
Billing code 3195-01-M

Editorial note: For the President's statement of April 17 on the duty increases, see the *Weekly Compilation of Presidential Documents* (vol. 23, no. 15).

federal register

Wednesday
April 22, 1987

Part IV

Department of Health and Human Services

Food and Drug Administration

Advisory Committee; Meeting

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting

The following advisory committee meeting is announced:

Oncologic Drugs Advisory Committee

Date, time, and place. April 22, 9 a.m., Conference Rm. D, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m., David F Hersey, Center for Drugs and Biologics (HFN-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 301-443-4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in cancer treatment.

Agenda—Open public hearing. Interested persons asking to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee will discuss the expanded therapy and testing of interleukin-2 (IL-2) and IL-2 with lymphokine-activated killer (LAK) cells in patients with advanced melanoma and renal cancer. Members of the National Cancer Institute (NCI) advisory councils and NCI staff will participate in the discussion. The joint recommendations by FDA/NCI for patient participation in therapy and testing under a modified Group C Protocol will be presented. The sites for treatment and testing will be the NCI clinical and comprehensive cancer centers.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFW-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857 approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857 approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Because of the need for immediate consideration of this urgent and important public health issue, the Commissioner is authorizing an exception to the requirement to publish this notice 15 days before the meeting, in accordance with 21 CFR 14.20(a).

Dated: April 16, 1987

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87-9261 Filed 4-21-87; 11:07 am]

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